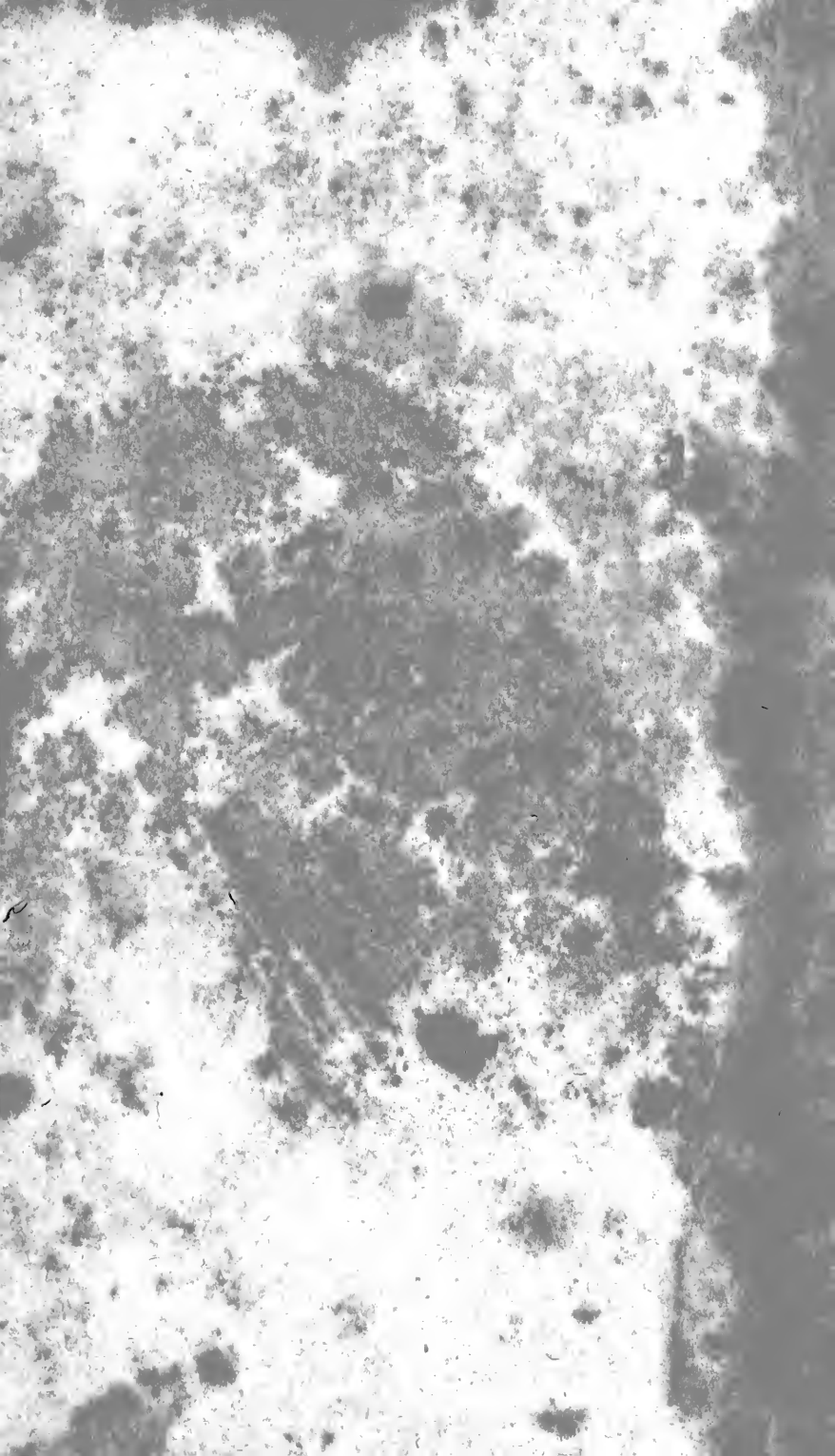
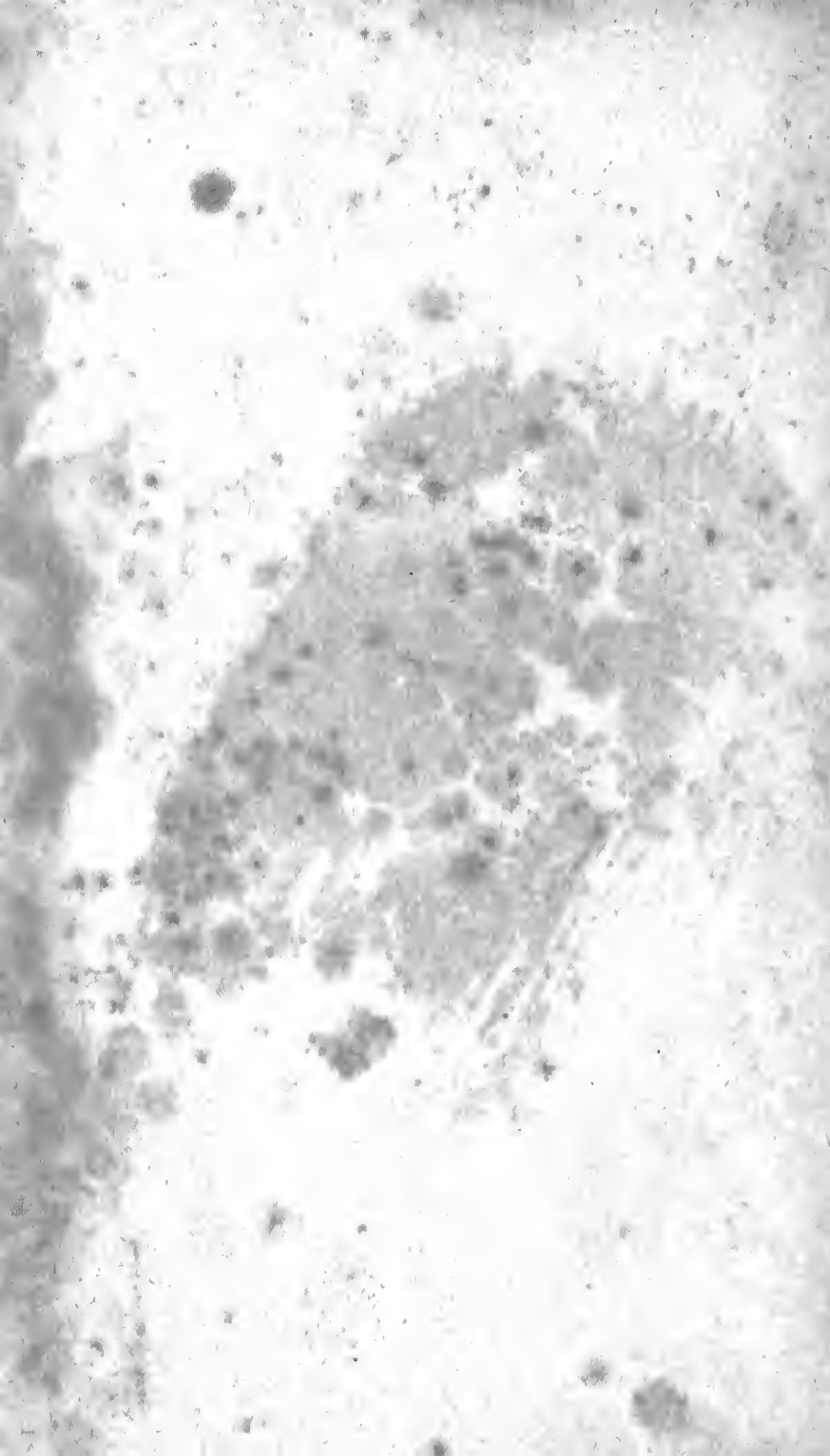


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VIEW

STATE OF EUROPE

THE HISTORY OF

IN THE

BY HENRY MARTIN

IN THREE VOLUMES

VOL. IV

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VIEW



OF THE

STATE OF EUROPE

DURING

THE MIDDLE AGES.

IN FOUR VOLUMES.

BY HENRY HALLAM, ESQ.

Ἐκ Χάος δ' Ἐγεβός γε μέλαινά γε Νύξ ἐγένοντο
Νυκτὸς δ' αὖτ' Αἰθήρ γε καὶ Ἡμέρη ἐξεγένοντο.

ΗΣΙΟΔΟΣ.

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THE want of all judicial authority, either to issue process or to examine witnesses, together with the

usual shortness of sessions, deprived the house of commons of what is now considered one of its most fundamental privileges, the cognizance of disputed elections. Upon a false return by the sheriff, there was no remedy but through the king or his council. Six instances only, I believe, occur during the reigns of the Plantagenet family, wherein the misconduct or mistake of the sheriff is recorded to have called for a specific animadversion, though it was frequently the ground of general complaint, and even of some statutes. The first is in the 12th of Edward II., when a petition was presented to the council against a false return for the county of Devon, the petitioner having been duly elected. It was referred to the court of exchequer to summon the sheriff before them.* The next occurs in the 36th of E. III., when a writ was directed to the sheriff of Lancashire, after the dissolution of parliament, to inquire at the county court into the validity of the election; and upon his neglect, a second writ issued to the justices of the peace to satisfy themselves about this in the best manner they could, and report the truth into chancery. This inquiry after the dissolution was on account of the wages for attendance, to which the knights unduly returned could have no pretence.† We find a third case in the 7th of Richard II., when the king took notice that Thomas de Camoys, who was summoned by writ to the house of peers, had

* Glanvil's Reports of Elections, Edit. 1774. Introduction, p. 12.

† Prynne, p. 261.

been elected knight for Surrey, and directed the sheriff to return another.* In the same year, the town of Shaftsbury petitioned the king, lords, and commons, against a false return of the sheriff of Dorset, and prayed them to order remedy. Nothing further appears respecting this petition.† This is the first instance of the commons being noticed in matters of election. But the next case is more material: in the 5th of Henry IV., the commons prayed the king and lords in parliament, that because the writ of summons to parliament was not sufficiently returned by the sheriff of Rutland, this matter might be examined in parliament, and in case of default found therein, an exemplary punishment might be inflicted; whereupon the lords sent for the sheriff, and Oneby, the knight returned, as well as Thorp who had been duly elected, and having examined into the facts of the case, directed the return to be amended, by the insertion of Thorp's name, and committed the sheriff to the Fleet, till he should pay a fine at the king's pleasure.‡ The last passage that I can produce is from the roll of 18 H. VI., where "it is considered by the king, with the advice and assent of the lords spiritual and temporal," that whereas no knights have been returned for Cambridgeshire, the sheriff shall be directed, by another writ, to hold a court, and to proceed to an election, proclaiming that no person shall come armed, nor any tumultu-

* Glanvil's Reports, *ibid.* from Pryne.

† *Id.* *ibid.* ‡ *Ibid.* and Rot. Parl. v. iii. p. 530.

ous proceeding take place ; something of which sort appears to have obstructed the execution of the first writ. It is to be noticed that the commons are not so much as named in this entry.* But several provisions were made by statute under the Lancastrian kings, when seats in parliament became much more an object of competition than before, to check the partiality of the sheriffs in making undue returns. One act (11 H. IV. c. 1.) gives the justices of assize power to inquire into this matter, and inflicts a penalty of one hundred pounds on the sheriff. Another, (6 H. VI. c. 4.) mitigates the rigour of the former, so far as to permit the sheriff or the knights returned by him to traverse the inquests before the justices ; that is, to be heard in their own defence, which, it seems, had not been permitted to them. Another (23 H. VI. c. 14.) gives an additional penalty upon false returns to the party aggrieved. These statutes conspire with many other testimonies to manifest the rising importance of the house of commons, and the eagerness with which gentlemen of landed estate (whatever might be the case in petty boroughs) sought for a share in the national representation.

Whoever may have been the original voters for county representatives, the first statute that regulates their election, so far from limiting the privilege to tenants in capite, appears to place it upon a very large and democratical foundation. For, (as I rather conceive, though not without much hesitation,) not

* Rot. Parl. vol. v. p. 7.

only all freeholders, but all persons whatever, present at the county-court, were declared, or rendered, capable of voting for the knight of their shire. Such at least seems to be the inference from the expressions of 7 H. IV. c. 15. "all who are there present, as well suitors duly summoned for that cause, as others."* And this is confirmed by the later statute, 8 H. VI. c. 7. which, reciting that "elections of knights of shires have now of late been made by very great, outrageous and excessive number of people

* 3 Prynne's Register. p. 187. This hypothesis, though embraced by Prynne, is, I confess, much opposed to general opinion; and a very respectable living writer treats such an interpretation of the statute 7 H. IV. as chimerical. The words cited in the text "as others" mean only, according to him, suitors not duly summoned. Heywood on Elections, vol. i. p. 20. But, as I presume, the summons to freeholders was by general proclamation; so that it is not easy to perceive what difference there could be between summoned and unsummoned suitors. And if the words are supposed to glance at the private summonses to a few friends, by means of which the sheriffs were accustomed to procure a clandestine election, one can hardly imagine that such persons would be styled 'duly summoned.' It is not unlikely, however, that these large expressions were inadvertently used, and that they led to that inundation of voters without property, which rendered the subsequent act of Henry VI. necessary. That of Henry IV. had itself been occasioned by an opposite evil, the close election of knights by a few persons in the name of the county.

Yet the consequence of the statute of Henry IV. was not to let in too many voters, or to render elections tumultuous, in the largest of English counties, whatever it might be in others. Prynne has published some singular sheriff's indentures for the county of York, all during the interval between the acts of Henry IV. and Henry VI., which are sealed by a few persons calling themselves the attorneys of some peers and ladies, who, as far as appears, had solely returned the knights of that shire. 3 Prynne, p. 152. What degree of weight these anomalous returns ought to possess, I leave to the reader.

dwelling within the same counties, of the which most part was people of small substance, and of no value," confines the elective franchise to freeholders of land or tenement to the value of forty shillings. It seems hardly probable, that freeholders of less than forty shillings value, equivalent to about thirty pounds at present, could of themselves have been sufficiently numerous to justify the expressions of this preamble.

The representation of towns in parliament was founded upon two principles; of consent to public burthens, and of advice in public measures, especially such as related to trade and shipping. Upon both these accounts it was natural for the kings who first summoned them to parliament, little foreseeing that such half-emancipated burghers would ever clip the loftiest plumes of their prerogative, to make these assemblies numerous, and summon members from every town of consideration in the kingdom. Thus the writ of 23 E. I. directs the sheriffs to cause deputies to be elected to a general council from every city, borough, and trading town. And although the last words are omitted in subsequent writs, yet their spirit was preserved; many towns having constantly returned members to parliament, by regular summonses from the sheriffs, which were no chartered boroughs, nor had apparently any other claim than their populousness or commerce. These are now called boroughs by prescription.*

* The majority of prescriptive boroughs have prescriptive corporations, which carry the legal, which is not always the moral, presumption of an original charter. But "many boroughs

Besides these respectable towns, there were some of a less eminent figure, which had writs directed to them, as ancient demesnes of the crown. During times of arbitrary taxation, the crown had set tallages alike upon its chartered boroughs and upon its tenants in demesne. When parliamentary consent became indispensable, the free tenants in ancient demesne, or rather such of them as inhabited some particular vills, were called to parliament among the other representatives of the commons. They are usually specified distinctly from the other classes of representatives in grants of subsidies throughout the parliaments of the two first Edwards, till, about the beginning of the third's reign, they were confounded with ordinary burgesses.* This is the foundation of that particular species of elective franchise inci-

and towns in England have burgesses by prescription, that never were incorporate." Ch. J. Hobart in *Dungannon Case*, Hobart's Reports, p. 15. And Mr. Luders thinks, I know not how justly, that in the age of Edward I., which is most to our immediate purpose, "there were not perhaps thirty corporations in the kingdom." Reports of Elections, vol. i. p. 98. But I must allow that, in the opinion of many sound lawyers, the representation of unchartered, or at least unincorporated boroughs was rather a *real* privilege, and founded upon tenure, than one arising out of their share in public contributions. Ch. J. Holt in *Ashby v. White*, 2 Ld. Raymond, 951. Heywood on Borough Elections, p. 11. This inquiry is very obscure; and perhaps the more so, because the learning directed towards it has more frequently been that of advocates, than of unbiassed antiquaries. If this be kept in view, the lover of constitutional history will find much information in several of the reported cases on controverted elections; particularly those of *Tewksbury* and *Liskcard* in Peckwell's Reports, vol. i.

* Brady on Boroughs, p. 75. 80. and 163. Case of *Tewksbury*, in Peckwell's Reports, vol. i. p. 178.

dent to what we denominate burgage-tenure; which, however, is not confined to the ancient demesne of the crown.*

The proper constituents therefore of the citizens and burgesses in parliament appear to have been—1. All chartered boroughs, whether they derived their privileges from the crown, or from a mesne lord, as several in Cornwall did from Richard king of the Romans;† 2. All towns which were the ancient or the actual demesne of the crown; 3. All considerable places, though unincorporated, which could afford to defray the expenses of their representatives, and had a notable interest in the public welfare. But no parliament ever perfectly corresponded with this theory. The writ was addressed in general terms to the sheriff, requiring him to cause two knights to be elected out of the body of the county, two citizens from every city, and two burgesses from every borough. It rested altogether upon him to determine, what towns should exercise this franchise; and it is really incredible, with all the carelessness and ignorance of those times, what frauds the sheriffs ventured to commit in executing this trust. Though parliaments met almost every year, and there could be no mistake in so notorious a fact, it was the continual practice of sheriffs to omit boroughs that had been in the recent habit of electing members, and to return upon the writ that there were no more within their county. Thus in the 12th of Edward III. the

* Littleton, s. 162. 163.

† Brady, p. 97.

sheriff of Wiltshire, after returning two citizens for Salisbury, and burgesses for two boroughs, concludes with these words: "There are no other cities, or boroughs within my bailiwick." Yet in fact eight other towns had sent members to preceding parliaments. So in the 6th of Edward II., the sheriff of Bucks declared that he had no borough within his county except Wycomb; though Wendover, Agmondesham and Marlow had twice made returns since that king's accession.* And from this cause alone it has happened, that many towns called boroughs, and having a charter and constitution as such, have never returned members to parliament; some of which are now among the most considerable in England, as Leeds, Birmingham, and Macclesfield.†

It has been suggested indeed by Brady,‡ that these returns may not appear so false and collusive, if we suppose the sheriff to mean only that there were no resident burgesses within these boroughs fit to be returned, or that the expense of their wages

* Brady on Boroughs, p. 110. 3 Prynne, p. 231. The latter even argues that this power of omitting ancient boroughs was legally vested in the sheriff before the 5th of Richard II. But, though the language of that act implies the contrary of this position, yet it is more than probable, that most of our parliamentary boroughs by prescription, especially such as were then unincorporated, are indebted for their privileges to the exercise of the sheriff's discretion; not founded on partiality, which would rather have led him to omit them, but on the broad principle that they were sufficiently opulent and important to send representatives to parliament.

† Willis, *Notitia Parliamentaria*, vol. i. preface, p. 35.

‡ p. 117.

would be too heavy for the place to support. And, no doubt, the latter plea, whether implied or not in the return, was very frequently an inducement to the sheriffs to spare the smaller boroughs. The wages of knights were four shillings a day, levied on all freeholders, or at least on all holding by knight-service, within the county.* Those of burgesses were half that sum;† but even this pittance was raised with reluctance and difficulty from miserable burgh-

* It is a perplexing question, whether freeholders in socage were liable to contribute towards the wages of knights; and authorities might be produced on both sides. The more probable supposition is, that they were not exempted. See the various petitions relating to the payment of wages in Prynne's fourth Register. This is not unconnected with the question as to their right of suffrage, see above, p. 219. Freeholders within franchises made repeated endeavours to exempt themselves from payment of wages. Thus in 9 H. VI. it was settled by parliament, that, to put an end to the disputes on this subject between the people of Cambridgeshire, and those of the isle of Ely, the latter should pay 200*l.*, and be quit in future of all charges on that account. Rot. Parl. vol. iv. p. 383. By this means the inhabitants of that franchise seem to have purchased the right of suffrage, which they still enjoy, though not, I suppose, suitors to the county-court. In most other franchises, and in many cities erected into distinct counties, the same privilege of voting for knights of the shire is practically exercised; but whether this has not proceeded as much from the tendency of returning officers and of parliament to favour the right of election in doubtful cases, as from the merits of their pretensions, may be a question.

† The wages of knights and burgesses were first reduced to this certain sum by the writs *De levandis expensis*, 16 E. II. Prynne's fourth Register, p. 53. These were issued at the request of those who had served, after the dissolution of parliament, and included a certain number of days, according to the distance of the county whence they came, for going and returning. It appears by these that thirty-five or forty miles were reckoned a day's journey; which may correct the exaggerated

ers, little solicitous about political franchises. Poverty, indeed, seems to have been accepted as a legal excuse. In the 6th of E. II. the sheriff of Northumberland returns to the writ of summons, that all his knights are not sufficient to protect the county; and in the 1st of E. III., that they were too much ravaged by their enemies to send any members to parliament.* The sheriffs of Lancashire, after several returns that they had no boroughs within their county, though Wigan, Liverpool, and Preston were such, alleged at length, that none ought to be called upon, on account of their poverty. This return was constantly made, from 36 E. III. to the reign of Henry VI.†

The elective franchise was deemed by the boroughs no privilege or blessing, but rather, during the chief part of this period, an intolerable grievance. Where they could not persuade the sheriff to omit sending his writ to them, they set it at defiance by

notions of bad roads and tardy locomotion, that are sometimes entertained. See Prynne's fourth part, and Willis's *Notitia Parliamentaria*, passim.

The latest entries of writs for expenses in the close rolls are of 2 H. V.; but they may be proved to have issued much longer; and Prynne traces them to the end of Henry VIII.'s reign, p. 495. Without the formality of this writ, a very few instances of towns remunerating their burgesses for attendance in parliament are known to have occurred in later times. Andrew Marvel is commonly said to have been the last who received this honourable salary. A modern book asserts, that wages were paid in some Cornish boroughs as late as the eighteenth century. Lyson's *Cornwall*, preface, p. xxxii; but the passage quoted in proof of this is not precise enough to support so unlikely a fact.

* 3 Prynne, p. 165. † 4 Prynne, p. 317.

making no return. And this seldom failed to succeed, so that after one or two refusals to comply, which brought no punishment upon them, they were left in quiet enjoyment of their insignificance.

The town of Torrington in Devonshire went farther, and obtained a charter of exemption from sending burgesses, grounded upon what the charter asserts to appear on the rolls of chancery, that it had never been represented before the 21st of E. III. This is absolutely false, and is a proof how little we can rely upon the veracity of records, Torrington having made not less than twenty-two returns before that time. It is curious, that in spite of this charter, the town sent members to the two ensuing parliaments, and then ceased for ever.* Richard II. gave the inhabitants of Colchester a dispensation from returning burgesses for five years, in consideration of the expenses they had incurred in fortifying the town.† But this immunity, from whatever reason, was not regarded, Colchester having continued to make returns as before.

The partiality of sheriffs in leaving out boroughs, which were accustomed in old time to come to the parliament, was repressed, as far as law could repress it, by a statute of Richard II., which imposed a fine on them for such neglect, and upon any member of parliament who should absent himself from his duty.‡ But it is, I think, highly probable, that

* 4 Prynne, p. 320. † 3 Prynne, p. 241.

‡ 5 R. II. stat. ii. c. 4.

a great part of those who were elected from the boroughs did not trouble themselves with attendance in parliament. The sheriff even found it necessary to take sureties for their execution of so burthensome a duty, whose names it was usual, down to the end of the fifteenth century, to endorse upon the writ along with those of the elected.* This expedient is not likely to have been very successful; and the small number, comparatively speaking, of writs for expenses of members for boroughs, which have been published by Prynne, while those for the knights of shires are almost complete, leads to a strong presumption that their attendance was very defective. This statute of Richard II. produced no sensible effect.

By what persons the election of burgesses was usually made is a question of great obscurity, which is still occasionally debated before committees of parliament. It appears to have been the common practice for a very few of the principal members of the corporation to make the election in the county-court, and their names, as actual electors, are generally returned upon the writ by the sheriff.† But we cannot surely be warranted by this to infer, that they acted in any other capacity than as deputies of the whole body, and indeed it is frequently expressed that they chose such and such persons by the assent

* Luder's Reports, vol. i. p. 15. Sometimes an elected burgess absolutely refused to go to parliament, and drove his constituents to a fresh choice. 3 Prynne, p. 277.

† 3 Prynne, p. 252.

of the community;* by which word, in an ancient corporate borough, it seems natural to understand the freemen participating in its general franchises, rather than the ruling body, which, in many instances at present, and always perhaps in the earliest age of corporations, derived its authority by delegation from the rest. The consent, however, of the inferior freemen we may easily believe to have been merely nominal; and from being nominal, it would in many places come by degrees not to be required at all; the corporation, specially so denominated, or municipal government, acquiring by length of usage an exclusive privilege in election of members of parliament, as they did in the local administration. This, at least, appears to me a more probable hypothesis, than that of Dr. Brady, who limits the original right of election in all corporate boroughs to the aldermen or other capital burgesses.†

The members of the house of commons, from this occasional disuse of ancient boroughs, as well as from the creation of new ones, underwent some fluctuation during the period subject to our review. Two hundred citizens and burgesses sat in the parliament held by Edward I. in his twenty-third year, the earliest epoch of acknowledged representation. But in the reigns of Edward III. and his three successors, about ninety places, on an average, returned

* Id. p. 257. *de assensu totius communitatis predictæ elegerunt R. W.* so in several other instances quoted in the ensuing pages.

† Brady on Boroughs, p. 132, &c.

members, so that we may reckon this part of the commons at one hundred and eighty.* These, if regular in their duties, might appear an over-balance for the seventy-four knights who sat with them. But the dignity of ancient lineage, territorial wealth, and military character, in times when the feudal spirit was hardly extinct, and that of chivalry at its height, made these burghers vail their heads to the landed aristocracy. It is pretty manifest, that the knights, though doubtless with some support from the representatives of towns, sustained the chief brunt of battle against the crown. The rule and intention of our old constitution was, that each county, city or borough should elect deputies out of its own body, resident among themselves, and consequently acquainted with their necessities and grievances.† It would be very interesting to discover, at what time, and by what degrees, the practice of elections swerved from this strictness. But I have not been able to trace many steps of the transition. The number of practising lawyers who sat in parliament,

* Willis, *Notitia Parliamentaria*, vol. iii. p. 96, &c. 3 Prynne, p. 224, &c.

† In 4 Edw. II. the sheriff of Rutland made this return: *Eligi feci in pleno comitatu, loco duorum militum, eo quod milites non sunt in hoc comitatu commorantes, duos homines de comitatu Rutland, de discretioribus et ad laborandum potentioribus*, &c. 3 Prynne, p. 170. But this deficiency of actual knights soon became very common. In 19 E. II. there were twenty-eight members returned from shires, who were not knights, and but twenty-seven who were such. The former had at this time only two shillings or three shillings a day for their wages, while the real knights had four shillings. 4 Prynne, p. 53. 74. But in the next reign, their wages were put on a level.

of which there are several complaints, seems to afford an inference that it had begun in the reign of Edward III. Besides several petitions of the commons, that none but knights or reputable squires should be returned for shires, an ordinance was made in the forty-sixth of his reign that no lawyer practising in the king's court, nor sheriff during his shrievalty be returned knight for a county; because these lawyers put forward many petitions in the name of the commons, which only concerned their clients.* This probably was truly alleged, as we may guess from the vast number of proposals for changing the course of legal process, which fill the rolls during this reign. It is not to be doubted, however, that many practising lawyers were men of landed estate in their respective counties.

An act in the first year of Henry V. directs that none be chosen knights, citizens, or burgesses, who are not resident within the place for which they are returned on the day of the date of the writ.† This statute apparently indicates a point of time, when the deviation from the line of law was frequent enough to attract notice, and yet not so established as to pass for an unavoidable irregularity. It proceeded however from great and general causes, which new laws, in this instance very fortunately, are utterly incompetent to withstand. There cannot be a more apposite proof of the inefficacy of human

* Rot. Parl. vol. ii. p. 310. † 1 H. V. c. 1.

institutions to struggle against the steady course of events, than this unlucky statute of Henry V., which is almost a solitary instance in the law of England, wherein the principle of desuetude has been avowedly set up against an unrepealed enactment. I am not aware, at least, of any other, which not only the house of commons, but the court of king's bench has deemed itself at liberty to declare unfit to be observed.* Even at the time when it was enacted, this law had probably as such very little effect. But still the plurality of elections were made, according to ancient usage as well as statute, out of the constituent body. The contrary instances were exceptions to the rule; but exceptions increasing continually, till they subverted the rule itself. Prynne has remarked, that we chiefly find Cornish surnames among the representatives of Cornwall, and those of northern families among the returns from the north. Nor do the members for shires and towns seem to have been much interchanged; the names of the former belonging to the most ancient families, while those of the latter have a more plebeian cast.† In the reign of Edward IV., and not before, a very few of the burgesses bear the addition of esquire in

* See the case of Dublin university, in the first volume of Peckwell's Reports of contested Elections. Note D. p. 53. The statute itself was repealed by 14 G. III. c. 58.

† By 23 H. VI. c. 15. none but gentlemen born, generosi a nativitate, are capable of sitting in parliament as knights of counties; an election was set aside 39 H. VI. because the person returned was not of gentle birth. Prynne's third Register, p. 161.

the returns ; which became universal in the middle of the succeeding century.*

Even county elections seem in general, at least in the fourteenth century, to have been ill attended, and left to the influence of a few powerful and active persons. A petitioner against an undue return in the 12th of Edward II. complains that, whereas he had been chosen knight for Devon, by Sir William Martin, bishop of Exeter, with the consent of the county, yet the sheriff had returned another.† In several indentures of a much later date, a few persons only seem to have been concerned in the election, though the assent of the community be expressed.‡ These irregularities, which it would be exceedingly erroneous to convert, like Hume, into lawful customs, resulted from the abuses of the sheriff's power, which, when parliament sat only for a few weeks with its hands full of business, were almost sure to escape with impunity. They were sometimes also countenanced, or rather instigated

* Willis, *Notitia Parliamentaria*. Prynne's fourth Register, p. 1184. A letter in that authentic and interesting accession to our knowledge of ancient times, the Paston collection, shews that eager canvass was sometimes made by country gentlemen in Edward IV.'s reign to represent boroughs. This letter throws light at the same time on the creation or revival of boroughs. The writer tells Sir John Paston : " If ye miss to be burges of Maldon, and my lord chamberlain will, ye may be in another place ; there be a dozen towns in England that choose no burges, which ought to do it, ye may be set in for one of those towns an' ye be friended." This was in 1472. vol. ii. p. 107.

† *Glanvil's Reports of Elections*, edit. 1774. Introduction, p. xii.

‡ Prynne's third Register, p. 171.

by the crown, which, having recovered in Edward II.'s reign the prerogative of naming the sheriffs, surrendered by an act of his father,* filled that office with its creatures, and constantly disregarded the statute forbidding their continuance beyond a year. Without searching for every passage that might illustrate the interference of the crown in elections, I will mention two or three leading instances. When Richard II. was meditating to overturn the famous commission of reform, he sent for some of the sheriffs, and required them to permit no knight or burgess to be elected to the next parliament, without the approbation of the king and his council. The sheriffs replied, that the commons would maintain their ancient privilege of electing their own representatives.† The parliament of 1397, which attainted his enemies, and left the constitution at his mercy, was chosen, as we are told, by dint of intimidation and influence.‡ Thus also that of Henry VI. held at Coventry in 1460, wherein the duke of York and his party were attainted, is said to have been unduly returned by the like means. This is rendered probable by a petition presented

* 28 E. I. c. 8. 9 E. II. It is said that the sheriff was elected by the people of his county in the Anglo-Saxon period; no instance of this however, according to Lord Lyttleton, occurs after the conquest. Shrievalties were commonly sold by the Norman kings. Hist. of Henry II vol. ii. p. 221.

† Vita Ricardi II. p. 85.

‡ Otterbourne, p. 191. He says of the knights returned on this occasion, that they were not elected per communitatem, ut mos exigit, sed per regiam voluntatem.

to it by the sheriffs, praying indemnity for all which they had done in relation thereto contrary to law.* An act passed according to their prayer, and in confirmation of elections. A few years before, in 1455, a singular letter under the king's signet is addressed to the sheriffs, reciting that "we be enfourmed there is busy labour made in sondry wises by certaine persons for the chesyng of the said knights, of which labour we marvaille greatly, insomuche as it is nothing to the honour of the laborers, but ayenst their worship; it is also ayenst the lawes of the lande," with more to that effect; and enjoining the sheriff to let elections be free and the peace kept.† There was certainly no reason to wonder that a parliament, which was to shift the virtual sovereignty of the kingdom into the hands of one whose claims were known to extend much farther, should be the object of tolerably warm contests. Thus in the Paston letters, we find several proofs of the importance attached to parliamentary elections by the highest nobility.‡

The House of Lords, as we left it in the reign of Henry III., was entirely composed of such persons holding lands by barony as were summoned by particular writ to parliament.§ Tenure and summons

* Prynne's second Reg. p. 141. Rot. Parl. vol. v. p. 367.

† Id. p. 450.

‡ Vol. i. p. 96. 98.; vol. ii. p. 99. 105.; vol. iii. p. 243.

§ Upon this dry and obscure subject of inquiry, the nature and constitution of the house of lords during this period, I have been much indebted to the first part of Prynne's Register, and

were both essential at this time in order to render any one a lord of parliament; the first by the ancient constitution of our feudal monarchy from the conquest; the second by some regulation or usage of doubtful origin, which was thoroughly established before the conclusion of Henry III.'s reign. This produced of course a very marked difference between the greater, and the lesser or unparliamentary barons. The tenure of the latter, however, still subsisted, and though too inconsiderable to be members of the legislature, they paid relief as barons, they might be challenged on juries, and, as I presume, by parity of reasoning, were entitled to trial by their peerage. These lower barons, or, more commonly, tenants by parcels of baronies,* may be dimly traced to the latter years of Edward III.† But many of them were

to West's Inquiry into the manner of creating peers; which, though written with a party motive, to serve the ministry of 1719 in the peerage-bill, deserves, for the perspicuity of the method and style, to be reckoned among the best of our constitutional dissertations.

* Baronies were often divided by descent among females into many parts, each retaining its character as a fractional member of a barony. The tenants in such case were said to hold of the king by the third, fourth, or twentieth part of a barony, and did service, or paid relief in such proportion.

† Madox, *Baronia Anglica*, p. 42. and 58. West's Inquiry, p. 28. 33. That a baron could only be tried by his fellow barons was probably a rule as old as the trial per pais of a commoner. In 4 E. III. Sir Simon Bereford having been accused before the lords in parliament of aiding and advising Mortimer in his treasons, they declared with one voice, that he was not their peer; wherefore they were not bound to judge him as a peer of the land; but inasmuch as it was notorious, that he had been concerned in usurpation of royal powers and murder of the liege lord, (as they style Edward II.) the lords, as judges of parlia-

successively summoned to parliament, and thus recovered the former lustre of their rank; while the rest fell gradually into the station of commoners, as tenants by simple knight-service.

As tenure without summons did not entitle any one to the privileges of a lord of parliament, so no spiritual person at least ought to have been summoned without baronial tenure. The prior of St. James at Northampton, having been summoned in the 12th of Edward II., was discharged upon his petition, because he held nothing of the king by barony, but only in frankalmoign. The prior of Bridlington, after frequent summonses, was finally left out, with an entry made in the roll, that he held nothing of the king. The abbot of Leicester had been called to fifty parliaments; yet, in the 25th of Edward III., he obtained a charter of perpetual exemption, reciting that he held no lands or tenements of the crown by barony or any such service as bound him to attend parliaments or councils.* But great irregularities prevailed in the rolls of chancery, from which the writs to spiritual and temporal peers were taken; arising in part, perhaps, from negligence, in part

ment, by assent of the king in parliament, awarded and adjudged him to be hanged. A like sentence with a like protestation was passed on Mautravers and Gournay. There is a very remarkable anomaly in the case of Lord Berkley, who, though undoubtedly a baron, his ancestors having been summoned from the earliest date of writs, put himself on his trial in parliament by twelve knights of the county of Gloucester. Rot. Parl. vol. ii. p. 53. Rymer, t. iv. p. 734.

* Prynne, p. 142, &c. West's Inquiry.

from wilful perversion; so that many abbots and priors, who like these had no baronial tenure, were summoned at times and subsequently omitted, of whose actual exemption we have no record. Out of one hundred and twenty-two abbots, and forty-one priors, who at some time or other sat in parliament, but twenty-five of the former, and two of the latter were constantly summoned; the names of forty occur only once, and those of thirty-six others not more than five times.* Their want of baronial tenure, in all probability, prevented the repetition of writs, which accident or occasion had caused to issue.†

The ancient temporal peers are supposed to have been intermingled with persons who held nothing of the crown by barony, but attended in parliament solely by virtue of the king's prerogative exercised in the writ of summons.‡ These have been called

* Prynne, p. 141.

† It is worthy of observation, that the spiritual peers summoned to parliament were in general considerably more numerous than the temporal. Prynne, p. 114. This appears among other causes to have saved the church from the sweeping reformation of its wealth, and perhaps of its doctrines, which the commons were thoroughly inclined to make under Richard II. and Henry IV. Thus the reduction of the spiritual lords by the dissolution of monasteries was indispensably required to bring the ecclesiastical order into due subjection to the state.

‡ Perhaps it can hardly be said that the king's prerogative compelled the party summoned, not being a tenant by barony, to take his seat. But though several spiritual persons appear to have been discharged from attendance on account of their holding nothing by barony, as has been just observed, yet there is, I believe, no instance of any layman's making such an application. The terms of the ancient writ of summons, however, in *fide et homagio quibus nobis tenemini*, afford a presumption that

barons by writ; and it seems to be denied by no one, that, at least under the three first Edwards, there were some of this description in parliament. But after all the labours of Dugdale and others in tracing the genealogies of our ancient aristocracy, it is a problem of much difficulty to distinguish these from the territorial barons. As the latter honours descended to the female heirs, they passed into new families and new names, so that we can hardly decide of one summoned for the first time to parliament, that he did not inherit the possession of a feudal barony. Husbands of baronial heiresses were almost invariably summoned in their wives' right, though frequently by their own names. They even sat after the death of their wives as tenants by the courtesy.* Again, as lands, though not the subject of frequent transfer, were, especially before the statute de donis, not inalienable, we cannot positively assume, that all the right heirs of original barons had preserved those estates upon which their barony had depended.† If we judge, however, by the lists of

a feudal tenure was, in construction of law, the basis of every lord's attendance in parliament. This form was not finally changed to the present, in *fide et ligeantiâ*, till the 46th of Edw. III. Prynne's 1st Register, p. 206.

* Collins's Proceedings on Claims of Baronies, p. 14. and 72.

† Prynne speaks of "the alienation of baronies by sale, gift, or marriage, after which the new purchasers were summoned instead" as if it frequently happened. 1st Register, p. 239. And several instances are mentioned in the Bergavenny case. (Collins's Proceedings, p. 113.) where land-baronies having been entailed by the owners on their heirs male, the heirs general have been excluded from inheriting the dignity.

those summoned, according to the best means in our power, it will appear that the regular barons by tenure were all along very far more numerous than those called by writ; and that from the end of Edward III.'s reign, no spiritual person, and few, if any laymen, except peers created by patent, were summoned to parliament, who did not hold territorial baronies. *

With respect to those who were indebted for their seats among the lords to the king's writ, there are two material questions: whether they acquired a hereditary nobility by virtue of the writ; and, if this be determined against them, whether they had a decisive, or merely a deliberative voice in the house. Now, for the first question, it seems that, if the writ of summons conferred an estate of inheritance, it must have

It is well known, notwithstanding these ancient precedents, that the modern doctrine does not admit any right in the purchaser of a territorial peerage, such as Arundel, to a writ of summons, or consequently to any privilege as a lord of parliament. But it might be a speculative question, whether such a purchaser would not become a real, though unparliamentary baron, and entitled as such to a trial by the peers. For though the king, assisted, if he please, by the advice of the house of lords, is finally and exclusively to decide upon claims to parliamentary privileges, yet the dignity of peerage, whether derived under ancient tenure or a royal patent, is vested in the possessor by act of law, whereof the ordinary courts of justice may incidentally take cognizance. See the case of *R. v. Knowles*, *Salkeld's Reports*, p. 509., the principles of which will never be controverted by any one acquainted with the original constitution of this country.

* *Prynne's 1st Register*, p. 237. This must be understood to mean that no new families were summoned; for the descendants of some who are not supposed to have held land-baronies may constantly be found in later lists.

done so, either by virtue of its terms, or by established construction and precedent. But the writ contains no words by which such an estate can in law be limited; it summons the person addressed to attend in parliament in order to give his advice on the public business, but by no means implies that this advice will be required of his heirs, or even of himself on any other occasion. The strongest expression is "*vobiscum et cæteris prælatis, magnatibus et proceribus,*" which appears to place the party on a sort of level with the peers. But the words *magnates* and *proceres* are used very largely in ancient language, and down to the time of Edward III., comprehend the king's ordinary council, as well as his barons. Nor can these, at any rate, be construed to pass an inheritance, which could not be granted by a private person, much less by the king, without express words of limitation. In a single instance, the writ of summons to Sir Henry de Bromflete, (27 H. VI.) we find these remarkable words: *Volumus enim vos et hæredes vestros masculos de corpore vestro legitime exeuntes barones de Vescy existere.* But Sir Henry de Bromflete was the lineal heir of the ancient barony de Vesci.* And if it were true that the writ of summons conveyed a ba-

* West's Inquiry. Prynne, who takes rather lower ground than West, and was not aware of Sir Henry de Bromflete's descent, admits that a writ of summons to any one, naming him baron, or dominus, as *Baroni de Greystoke, Domino de Furnival,* did give an inheritable peerage; not so a writ generally worded, naming the party knight or esquire, unless he held by barony.

rony of itself there seems no occasion to have introduced these extraordinary words of creation or revival. Indeed there is less necessity to urge these arguments from the nature of the writ, because the modern doctrine, which is entirely opposite to what has here been suggested, asserts that no one is ennobled by the mere summons, unless he has rendered it operative by taking his seat in parliament; distinguishing it in this from a patent of peerage, which requires no act of the party for its completion.* But this could be supported by nothing except long usage. If, however, we recur to the practice of former times, we shall find that no less than ninety-eight laymen were summoned once only to parliament, none of their name occurring afterwards; and fifty others, two, three, or four times. Some were constantly summoned during their lives, none of whose posterity ever attained that honour.† The course of proceeding, therefore, previous to the accession of Henry VII., by no means warrants the doctrine which was held in the latter end of Elizabeth's reign,‡ and has since been too fully established by

* Lord Abergavenny's case, 12 Coke's Reports; and Collins's Proceedings on claims of baronies by writ, p. 61.

† Prynne's 1st Register, p. 232. Elsynge, who strenuously contends against the writ of summons conferring an hereditary nobility, is of opinion that the party summoned was never omitted in subsequent parliaments, and consequently was a peer for life, p. 43. But more regard is due to Prynne's later inquiries.

‡ Case of Willoughby, Collins, p. 8.: of Dacres, p. 41.: of Abergavenny, p. 119. But see the case of Grey de Ruthyn p. 222 and 230. where the contrary position is stated by Selden upon better grounds.

repeated precedents to be shaken by any reasoning. The foregoing observations relate to the more ancient history of our constitution, and to the plain matter of fact as to those times, without considering what political cause there might be to prevent the crown from introducing occasional counsellors into the house of lords.

It is manifest by many passages in these records, that bannerets were frequently summoned to the upper house of parliament, constituting a distinct class inferior to barons, though generally named together, and ultimately confounded with them.* Barons are distinguished by the appellation of Sire, bannerets have only that of Monsieur, as le Sire de Berkley, le Sire de Fitzwalter, Monsieur Richard Scrop, Monsieur Richard Stafford. In the 7th of Richard II., Thomas Camoys having been elected knight of the shire for Surrey, the king addresses a writ to the sheriff, directing him to proceed to a new election, cum hujusmodi banneretti ante hæc tempora in milites comitatus ratione alicujus parliamenti eligi minime consueverunt. Camoys was summoned by writ to the same parliament. It has been inferred from hence by Selden, that he was a baron, and that the word banneret is merely synonymous.† But this is con-

* Rot. Parl. vol. ii. p. 147. 309.; vol. iii. p. 100. 386. 424.; vol. iv. p. 374. Rymer, t. vii. p. 161.

† Selden's Works, vol. iii. p. 764. Selden's opinion that bannerets in the lords' house were the same as barons may seem to require some contrary authorities, in order to support my own assertion, besides the passages above quoted from the rolls, of which he would naturally be supposed a more competent judge.

tradicted by too many passages. Bannerets had so far been considered as commoners some years before, that they could not be challenged on juries.* But they seem to have been more highly estimated at the date of this writ.

The distinction, however, between barons and bannerets died away by degrees. In the 2d of Henry VI.† Scrop of Bolton is called le Sire de Scrop; a proof that he was then reckoned among the barons. The bannerets do not often appear afterwards by that appellation as members of the upper house. Bannerets, or as they are called, bannerents, are enumerated among the orders of Scottish nobility in the year 1428, when the statute directing the common lairds or tenants in capite to send representatives was enacted; and a modern historian justly calls them an intermediate order between the peers and lairds.‡ Perhaps a consideration of these facts, which have frequently been overlooked, may tend in some measure to explain the occasional discontinuance, or sometimes the entire cessation, of writs of summons to an individual or his descendants; since we may conceive that bannerets, being

I refer therefore to Spelman's Glossary, p. 74.: Whitelocke on Parliamentary Writ, vol. i. p. 313. and Elsynge's Method of holding parliaments, p. 65.

* Puis un fut chalengé purce qu'il fut a banniere, et non allo-catur, car s'il soit a banniere, et ne tient pas par baronie, il sera en l'assise. Year Book 22 Edw. III. fol. 18. a. apud West's Inquiry, p. 22.

† Rot. Parl. vol. iv. p. 201.

‡ Pinkerton's Hist. of Scotland, vol. i. p. 357. and 365.

of a dignity much inferior to that of barons, had no such inheritable nobility in their blood as rendered their parliamentary privileges a matter of right. But whether all those who without any baronial tenure received their writs of summons to parliament, belonged to the order of bannerets, I cannot pretend to affirm; though some passages in the rolls might rather lead to such a supposition.

The second question relates to the right of suffrage possessed by these temporary members of the upper house. It might seem plausible certainly to conceive, that the real and ancient aristocracy would not permit their powers to be impaired by numbering the votes of such as the king might please to send among them, however they might allow them to assist in their debates. But I am much more inclined to suppose that they were in all respects on an equality with other peers during their actual attendance in parliament. For, 1. They are summoned by the same writ as the rest, and their names are confused among them in the lists; whereas the judges and ordinary counsellors are called by a separate writ, *vobiscum et cæteris de consilio nostro*, and their names are entered after those of the peers.* 2. Some, who

* West, whose business it was to represent the barons by writ as mere assistants without suffrage, cites the writ to them rather disingenuously, as if it ran *vobiscum, et cum prelati, magnatibus ac proceribus*, omitting the important word *cæteris*, p. 35. Prynne, however, from whom West has borrowed a great part of his arguments, does not seem to go the length of denying the right of suffrage to persons so summoned. 1st Register, p. 237.

do not appear to have held land-baronies, were constantly summoned from father to son, and thus became hereditary lords of parliament, through a sort of prescriptive right, which probably was the foundation of extending the same privilege afterwards to the descendants of all who had once been summoned. There is no evidence that the family of Scrope, for example, which was eminent under Edward III. and subsequent kings, and gave rise to two branches, the lords of Bolton and Masham, inherited any territorial honour.* 3. It is very difficult to obtain any direct proof as to the right of voting; because the rolls of parliament do not take notice of any debates; but there happens to exist one remarkable passage,

* These descended from two persons, each named Geoffrey le Scrope, chief justices of K. B. and C. B. at the beginning of Edward III.'s reign. The name of one of them is once found among the barons, but I presume this to have been an accident, or mistake in the roll; as he is frequently mentioned afterwards among the judges. Scrope, chief justice of K. B. was made a *banneret* in 14 E. III. He was the father of Henry Scrope of Masham, a considerable person in Edward III. and Richard II.'s government, whose grandson Lord Scrope of Masham was beheaded for a conspiracy against Henry V. There was a family of Scrupe as old as the reign of Henry II.; but it is not clear, notwithstanding Dugdale's assertion, that the Scropes descended from them, or at least that they held the same lands: nor were the Scrupes barons, as appears by their paying a relief of only sixty marks for three knight's fees. Dugdale's *Baronage*, p. 654.

The want of consistency in old records throws much additional difficulty over this intricate subject. Thus Scrop of Masham, though certainly a baron, and tried next year by the peers, is called Chevalier in an instrument of 1 H. V. Rymer, t. ix. p. xiii. So in the indictment against Sir John Oldcastle, he is constantly styled knight, though he had been summoned several times as Lord Cobham, in right of his wife, who inherited that barony. *Rot. Parl.* vol iv. p. 107.

in which the suffrages of the lords are individually specified. In the first parliament of Henry IV., they were requested by the earl of Northumberland, to declare what should be done with the late king Richard. The lords then present agreed that he should be detained in safe custody ; and on account of the importance of this matter, it seems to have been thought necessary to enter their names upon the roll in these words : The names of the lords concurring in their answer to the said question here follow ; to wit, the archbishop of Canterbury, and fourteen other bishops ; seven abbots ; the prince of Wales, the duke of York, and six earls ; nineteen barons, styled thus ; le Sire de Roos, or, le Sire de Grey de Ruthyn. Thus far the entry has nothing singular ; but then follow these nine names : Monsieur Henry Percy, Monsieur Richard Scrop, le Sire Fitz-hugh, le Sire de Bergeveny, le Sire de Lomley, le Baron de Greystock, le Baron de Hilton, Monsieur Thomas Erpyngham, Chamberlayn, Monsieur Mayhewe Gournay. Of these nine, five were undoubtedly barons, from whatever cause misplaced in order. Scrop was summoned by writ ; but his title of Monsieur, by which he is invariably denominated, would of itself create a strong suspicion that he was no baron, and in another place, we find him reckoned among the bannerets. The other three do not appear to have been summoned, their writs probably being lost. One of them, Sir Thomas Erpyngham, a statesman well known in the history of those times.

is said to have been a banneret;* certainly he was not a baron. It is not unlikely that the two others, Henry Percy, (Hotspur) and Gournay, an officer of the household, were also bannerets; they cannot at least be supposed to be barons, neither were they ever summoned to any subsequent parliament. Yet in the only record we possess of votes actually given in the house of lords, they appear to have been reckoned among the rest.†

The next method of conferring an honour of peerage was by creation in parliament. This was adopted by Edward III. in several instances, though always, I believe, for the higher titles of duke or earl. It is laid down by lawyers, that whatever the king is said, in an ancient record, to have done in full parliament, must be taken to have proceeded from the whole legislature. As a question of fact, indeed, it might be doubted whether, in many proceedings where this expression is used, and especially in the creation of peers, the assent of the commons was specifically and deliberately given. It seems hardly consonant to the circumstances of their order under Edward III. to suppose their sanction necessary in what seemed so little to concern their interest. Yet there is an instance, in the fortieth year of that prince, where the lords individually, and the commons with one voice, are declared to have consented, at the king's request, that the lord de

* Bloomfield's Hist. of Norfolk, vol. iii. p. 645. (fol. edit.)

† Rot. Parl. vol. iii. p. 427.

Coucy, who had married his daughter, and was already possessed of estates in England, might be raised to the dignity of an earl, whenever the king should determine what earldom he would confer upon him.* Under Richard II., the marquisate of Dublin is granted to Vere by full consent of all the estates. But this instrument, besides the unusual name of dignity, contained an extensive jurisdiction and authority over Ireland.† In the same reign Lancaster was made duke of Guienne, and the duke of York's son created earl of Rutland, to hold during his father's life. The consent of the lords and commons is expressed in their patents, and they are entered upon the roll of parliament.‡ Henry V. created his brothers dukes of Bedford and Gloucester, by request of the lords and commons.§ But the patent of Sir John Cornwall, in the 10th of Henry VI., declares him to be made Lord Fanhope "by consent of the lords, in the presence of the three estates of parliament;" as if it were designed to shew that the commons had not a legislative voice in the creation of peers.||

The mention I have made of creating peers by act of parliament has partly anticipated the modern form of letters patent, with which the other was nearly allied. The first instance of a barony conferred by patent was in the tenth year of Richard II., when Sir John Holt, a judge of the Common Pleas, was

* vol. ii. p. 490. † vol. iii. p. 209. ‡ id. p. 263, 264.

§ vol. iv. p. 17.

|| id. p. 401.

created Lord Beauchamp of Kidderminster. Holt's patent, however, passed while Richard was endeavouring to act in an arbitrary manner; and in fact he never sat in parliament, having been attainted in that of the next year, by the name of Sir John Holt. In a number of subsequent patents down to the reign of Henry VII., the assent of parliament is expressed, though it very frequently happens, that no mention of it occurs on the parliamentary roll. And in some instances, the roll speaks to the consent of parliament, where the patent itself is silent.*

It is now perhaps scarcely known by many persons not unversed in the constitution of their country, that, besides the bishops and baronial abbots, the inferior clergy were regularly summoned at every parliament. In the writ of summons to a bishop, he is still directed to cause the dean of his cathedral church, the archdeacon of his diocese, with one proctor from the chapter of the former, and two from the body of his clergy, to attend with him at the place of meeting. This might by an inobservant reader be confounded with the summons to the convocation, which is composed of the same constituent parts, and, by modern usage, is made to assemble on the

* West's Inquiry, p. 65. This writer does not allow that the king possessed the prerogative of creating new peers without consent of parliament. But Prynne, (1st Register, p. 225.) who generally adopts the same theory of peerage as West, strongly asserts the contrary; and the party views of the latter's treatise, which I mentioned above, should be kept in sight. It was his object to prove, that the pending bill to limit the members of the peerage was conformable to the original constitution.

same day. But it may easily be distinguished by this difference; that the convocation is provincial, and summoned by the metropolitans of Canterbury and York; whereas the clause, commonly denominated *præmunientes*, (from its first word,) in the writ to each bishop proceeds from the crown, and enjoins the attendance of the clergy at the national council of parliament.*

The first unequivocal instance of representatives appearing for the lower clergy is in the year 1255, when they are expressly named by the author of the *Annals of Burton*.† They preceded, therefore, by a few years, the house of commons; but the introduction of each was founded upon the same principle. The king required the clergy's money, but dared not take it without their consent.‡ In the double parliament, if so we may call it, summoned in the eleventh of Edward I. to meet at Northampton and York, and divided according to the two ecclesiastical provinces, the proctors of chapters for each province, but not those of the diocesan clergy, were summoned through a royal writ addressed to the archbishops.

* Hody's *History of Convocations*, p. 12. *Dissertatio de antiquâ et modernâ Synodi Anglicani constitutione*, prefixed to *Wilkins's Concilia*, t. i.

† 2 *Gale, Scriptores Rer. Anglic.* t. ii. p. 355. Hody, p. 345. *Atterbury (Rights of Convocations)*, p. 295. 315.) endeavours to shew that the clergy had been represented in parliament from the conquest, as well as before it. Many of the passages he quotes are very inconclusive; but possibly there may be some weight in one from *Matthew Paris*, ad ann. 1247, and two or three writs of the reign of Henry III.

‡ Hody, p. 381. *Atterbury's Rights of Convocations*, p. 221.

Upon account of the absence of any deputies from the lower clergy, these assemblies refused to grant a subsidy. The proctors of both descriptions appear to have been summoned by the *præmunientes* clause in the 22d, 23d, 24th, 28th, and 35th years of the same king; but in some other parliaments of his reign the *præmunientes* clause is omitted.* The same irregularity continued under his successor; and the constant usage of inserting this clause in the bishop's writ is dated from the twenty-eighth of Edward III.†

It is highly probable that Edward I., whose legislative mind was engaged in modelling the constitution on a comprehensive scheme, designed to render the clergy an effective branch of parliament, however their continual resistance may have defeated the accomplishment of this intention.‡ We find an entry upon the roll of his parliament at Carlisle, containing a list of all the proctors deputed to it by the several dioceses of the kingdom. This may be reckoned a clear proof of their parliamentary attendance during his reign under the *præmunientes* clause; since the province of Canterbury could not have been present in a convocation at a city beyond its limits.§ And indeed, if we were to found our judgment merely on the language used in these writs, it would be hard to resist a very strange paradox, that the clergy were not only one of the three estates of the realm,

* Hody, p. 386. Atterbury, p. 222. † Hody, p. 391.

‡ Gilbert's Hist. of Exchequer, p. 47.

§ Rot. Parl. vol. i. p. 189. Atterbury, p. 229.

but as essential a member of the legislature by their representatives as the commons.* They are summoned in the earliest writ extant, (23 E. I.) *ad tractandum, ordinandum et faciendum nobiscum, et cum cæteris prælatis, proceribus, ac aliis incolis regni nostri*; in that of the next year, *ad ordinandum de quantitate et modo subsidii*; in that of the twenty-eighth, *ad faciendum et consentiendum his, quæ tunc de communi consilio ordinari contigerit*. In later times, it ran sometimes *ad faciendum et consentiendum*, sometimes only *ad consentiendum*: which, from the fifth of Richard II., has been the term invariably adopted.† Now, as it is usual to infer from the same words when introduced into the writs for election of the commons, that they possessed an enacting power implied in the words *ad faciendum*, or at least to deduce the necessity of their assent from the words *ad consentiendum*, it should seem to follow, that the clergy were invested, as a branch of the parliament, with rights no less extensive. It is to be considered,

* The lower house of convocation, in 1547, terrified at the progress of reformation, petitioned, that "according to the tenor of the king's writ, and the ancient customs of the realm, they might have room and place, and be associated with the commons in the nether house of this present parliament, as members of the commonwealth and the king's most humble subjects." Burnet's Hist. of Reformation, vol. ii. Appendix No. 17. This assertion that the clergy had ever been associated as one body with the commons is not borne out by any thing that appears on our records, and is contradicted by many passages. But it is said, that the clergy were actually so united with the commons in the Irish parliament till the Reformation. Gilbert's Hist. of the Exchequer, p. 57.

† Hody, p. 392.

How we can reconcile these apparent attributes of political power with the unquestionable facts, that almost all laws, even while they continued to attend, were passed without their concurrence, and that, after some time, they ceased altogether to comply with the writ.*

The solution of this difficulty can only be found in that estrangement from the common law and the temporal courts, which the clergy throughout Europe were disposed to affect. In this country, their ambition defeated its own ends; and while they endeavoured by privileges and immunities to separate themselves from the people, they did not perceive that the line of demarcation thus strongly traced would cut them off from the sympathy of common interests. Every thing which they could call of ecclesiastical cognizance was drawn into their own courts; while the administration of what they contemned as a barbarous system, the temporal law of the land, fell into the hands of lay judges. But these were men not less subtle, not less ambitious, not less attached to their profession than themselves; and wielding, as they did in the courts of Westminster, the delegated sceptre of judicial sovereignty, they soon began to controul the spiritual jurisdiction, and

* The *præmunientes* clause in a bishop's writ of summons was so far regarded down to the Reformation, that proctors were elected, and their names returned upon the writ; though the clergy never attended from the beginning of the fifteenth century, and gave their money only in convocation. Since the Reformation, the clause has been preserved for form merely in the writ. Wilkins, *Dissertatio*, ubi supra.

to establish the inherent supremacy of the common law. From this time an inveterate animosity subsisted between the two courts, the vestiges of which have only been effaced by the liberal wisdom of modern ages. The general love of the common law, however, with the great weight of its professors in the king's council and in parliament, kept the clergy in surprizing subjection. None of our kings after Henry III. were bigots; and the constant tone of the commons serves to shew, that the English nation were thoroughly averse to ecclesiastical influence, whether of their own church or the see of Rome.

It was natural, therefore, to withstand the interference of the clergy summoned to parliament in legislation, as much as that of the spiritual court in temporal jurisdiction. With the ordinary subjects, indeed, of legislation they had little concert. The oppressions of the king's purveyors, or escheators, or officers of the forests, the abuses or defects of the common law, the regulations necessary for trading towns and sea-ports, were matters that touched them not, and to which their consent was never required. And, as they well knew there was no design in summoning their attendance but to obtain money, it was with great reluctance that they obeyed the royal writ, which was generally obliged to be enforced by an archiepiscopal mandate.* Thus instead of an as-

* Hody, p. 396. 403, &c. In 1314, the clergy protest even against the recital of the king's writ to the archbishop, directing him to summon the clergy of his province, in his letters mandatory, declaring that the English clergy had not been ac-

sembly of deputies from an estate of the realm they became a synod or convocation. And it seems probable that in most, if not all, instances where the clergy are said in the roll of parliament to have presented their petitions, or are otherwise mentioned as a deliberative body, we should suppose the convocation alone of the province of Canterbury to be intended.* For that of York seems to have been always considered as inferior, and even ancillary to the greater province, voting subsidies, and even assenting to canons, without deliberation, in compliance with the example of Canterbury;† the convocation of which province consequently assumed the importance of a national council. But in either point of view, the proceedings of this ecclesiastical assembly, collateral in a certain sense to parliament, yet very intimately connected with it, whether sitting by virtue of the *præmunientes* clause or otherwise, deserve some notice in a constitutional history.

In the sixth year of Edward III., the proctors of the clergy are specially mentioned, as present at the speech pronounced by the king's commissioner, and

customed, nor ought by right, to be convoked by the king's authority. Atterbury, p. 230.

* Hody, p. 425. Atterbury, p. 42. 233. The latter seems to think that the clergy of both provinces never actually met in a national council, or house of parliament, under the *præmunientes* writ, after the reign of Edward II., though the proctors were duly returned. But Hody does not go quite so far, and Atterbury had a particular motive to enhance the influence of the convocation for Canterbury.

† Atterbury, p. 46.

retired, along with the prelates, to consult together upon the business submitted to their deliberation. They proposed accordingly a sentence of excommunication against disturbers of the peace, which was assented to by the lords and commons. The clergy are said afterwards to have had leave, as well as the knights, citizens and burgesses, to return to their homes; the prelates and peers continuing with the king.* This appearance of the clergy in full parliament is not perhaps so decisively proved by any later record. But in the eighteenth of the same reign, several petitions of the clergy are granted by the king and his council, entered on the roll of parliament, and even the statute roll, and in some respects are still part of our law.† To these it seems highly probable that the commons gave no assent; and they may be reckoned among the other infringements of their legislative rights. It is remarkable, that in the same parliament, the commons, as if apprehensive of what was in preparation, besought the king that no petition of the clergy might be granted, till he and his council should have considered whether it would turn to the prejudice of the lords or commons.‡

A series of petitions from the clergy, in the twenty-fifth of Edward III., had not probably any real as-

* Rot. Parl. vol. ii. p. 64, 65.

† 18 E. III. stat. 3. Rot. Parl. vol. ii. p. 151. This is the parliament in which it is very doubtful whether any deputies from cities and boroughs had a place. The pretended statutes were therefore every way null; being falsely imputed to an incomplete parliament.

‡ *ibid.*

sent of the commons, though it is once mentioned in the enacting words, when they were drawn into a statute.* Indeed the petitions correspond so little with the general sentiment of hostility towards ecclesiastical privileges manifested by the lower house of parliament, that they would not easily have obtained its acquiescence. The convocation of the province of Canterbury presented several petitions in the fiftieth year of the same king, to which they received an assenting answer; but they are not found in the statute-book. This however produced the following remonstrance from the commons at the next parliament: "Also, the said commons beseech their lord the king, that no statute nor ordinance be made at the petition of the clergy, unless by assent of your commons; and that your commons be not bound by any constitutions which they make for their own profit without the commons' assent. For they will not be bound by any of your statutes or ordinances, made without their assent."† The king evaded a direct answer to this petition. But the province of Canterbury did not the less present their own grievances to the king in that parliament, and two among the statutes of the year seem to be founded upon no other authority.‡

In the first session of Richard II., the prelates and

* 25 E. III. stat. 3.

† p. 368. The word *they* is ambiguous; Whitlocke (on Parliamentary Writ, vol. ii. p. 346.) interprets it of the commons: I should rather suppose it to mean the clergy.

‡ 50 E. III. c. 4 and 5.

clergy of both provinces are said to have presented their schedule of petitions which appear upon the roll, and three of which are the foundation of statutes unassented to in all probability by the commons.* If the clergy of both provinces were actually present, as is here asserted, it must of course have been as a house of parliament, and not of convocation. It rather seems, so far as we can trust to the phraseology of records, that the clergy sat also in a national assembly under the king's writ in the second year of the same king.† Upon other occasions during the same reign, where the representatives of the clergy are alluded to as a deliberative body, sitting at the same time with the parliament, it is impossible to ascertain its constitution; and indeed even from those already cited, we cannot draw any positive inference.‡ But whether in convocation or in parlia-

* Rot. Parl. vol. iii. p. 25. A nostres tres excellent seigneur le roy supplie humblement ses devotes orateurs, les prelates et la clergie de la province de Cantorbirs et d'Everwyk. stat. 1 Richard II. c. 13, 14, 15. But see Hody, p. 425.; Atterbury, p. 339.

† p. 37.

‡ It might be argued, from a passage in the parliament-roll of 21 R. II., that the clergy of both provinces were not only present, but that they were accounted an essential part of parliament, in temporal matters, which is contrary to the whole tenor of our laws. The commons are there said to have prayed, that "whereas many judgments and ordinances formerly made in parliament had been annulled, *because the estate of clergy had not been present thereat*, the prelates and clergy might make a proxy with sufficient power to consent in their name to all things done in this parliament. Whereupon the spiritual lords agreed agreed to intrust their powers to Sir Thomas Percy, and gave him a procuration, commencing in the following

ment, they certainly formed a legislative council in ecclesiastical matters, by the advice and consent of which alone, without that of the commons, (I can say nothing as to the lords,) Edward III. and even Richard II. enacted laws to bind the laity. I have mentioned in a different place a still more conspicuous instance of this assumed prerogative; namely, the memorable statute against heresy in the second of Henry IV.; which can hardly be deemed any thing else than an infringement of the rights of parliament, more clearly established at that time than at the accession of Richard II. Petitions of the commons relative to spiritual matters, however frequently proposed, in few or no instances obtained the king's assent so as to pass into statutes, unless approved by

words: "Nos Thomas Cantuar' et Robertus Ebor' archiepiscopi, ac prælati *et clerus utriusque provinciæ Cantuar' et Ebor' jure ecclesiarum nostrarum et temporalium earundem habentes jus interessendi in singulis parliamentis domini nostri regis et regni Angliæ pro tempore celebrandis, necnon tractandi et expediendi in eisdem quantum ad singula in instanti parlamento pro statu et honore domini nostri regis, necnon regalix suæ, ac quiete, pace, et tranquillitate regni judicialiter justificandis, venerabili viro domino Thomæ de Percy Militi, nostram plenarie committimus potestatem.* It may be perceived by these expressions, and more unequivocally by the nature of the case, that it was the judicial power of parliament, which the spiritual lords delegated to their proxy. Many impeachments for capital offences were coming on, at which, by their canons, the bishops could not assist. But it can never be conceived, that the inferior clergy had any share in this high judicature. And, upon looking attentively at the words above printed in italics, it will be evident, that the spiritual lords holding by barony are the only persons designated; whatever may have been meant by the singular phrase, as applied to them, *clerus utriusque provinciæ.* Rot. Parl. vol. iii. p. 348.

the convocation.* But, on the other hand, scarcely any temporal laws appear to have passed by the concurrence of the clergy. Two instances only, so far as I know, are on record : the parliament held in the 11th of Richard II. is annulled by that in the twenty-first of his reign, “ with the assent of the lords spiritual and temporal, *and the proctors of the clergy*, and the commons ; † and the statute entailing the crown on the children of Henry IV. is said to be enacted on the petition of the prelates, nobles, clergy, and commons. ‡ Both these were stronger exertions of legislative authority than ordinary acts of parliament, and were very likely to be questioned in succeeding times.

The supreme judicature, which had been exercised by the king’s court, was diverted, about the reign of John, into three channels ; the tribunals of King’s Bench, Common Pleas, and the Exchequer. § These became the regular fountains of justice, which soon almost absorbed the provincial jurisdictions of the sheriff and lord of the manor. But the original institution, having been designed for ends of state, police and revenue, full as much as for the determination of private suits, still preserved the most eminent part of

* Atterbury, p. 346.

† 21 R. II. c. 12. Burnet’s Hist. of Reformation (vol. ii. p. 47.) led me to this act, which I had overlooked.

‡ Rot. Parl. vol. iii. p. 582. Atterbury, p. 61.

§ The ensuing sketch of the jurisdiction exercised by the king’s council has been chiefly derived from Sir Matthew Hale’s Treatise of the jurisdiction of the Lords’ House in Parliament, published by Mr. Hargrave.

its authority. For the king's ordinary or privy council, which is the usual style from the reign of Edward I., seems to have been no other than the king's court (*curia regis*) of older times, being composed of the same persons, and having in a principal degree, the same subjects of deliberation. It consisted of the chief ministers ; as the chancellor, treasurer, lord steward, lord admiral, lord marshall, the keeper of the privy seal, the chamberlain, treasurer, and comptroller of the household, the chancellor of the exchequer, the master of the wardrobe ; and of the judges, king's serjeant, and attorney-general, the master of the rolls, and justices in eyre, who at that time were not the same as the judges at Westminster. When all these were called together, it was a full council ; but where the business was of a more contracted nature, those only who were fittest to advise were summoned ; the chancellor and judges, for matters of law ; the officers of state, for what concerned the revenue or household.

The business of this council, out of parliament, may be reduced to two heads ; its deliberative office, as a council of advice, and its decisive power of jurisdiction. With respect to the first, it obviously comprehended all subjects of political deliberation, which were usually referred to it by the king ; this being in fact the administration or governing council of state, the distinction of a cabinet being introduced in comparatively modern times. But there were likewise a vast number of petitions continually presented to the council, upon which they proceeded no far-

ther than to sort, as it were, and forward them by endorsement to the proper courts, or advise the suitor what remedy he had to seek. Thus some petitions are answered ; “ this cannot be done without a new law ;” some were turned over to the regular court, as the chancery or king’s bench ; some of greater moment were endorsed to be heard “ before the great council ;” some, concerning the king’s interest, were referred to the chancery, or select persons of the council.

The coercive authority exercised by this standing council of the king was far more important. It may be divided into acts legislative and judicial. As for the first, many ordinances were made in council ; sometimes upon request of the commons in parliament, who felt themselves better qualified to state a grievance than a remedy ; sometimes without any pretence, unless the usage of government, in the infancy of the constitution, may be thought to afford one. These were always of a temporary or partial nature, and were considered as regulations not sufficiently important to demand a new statute. Thus in the second year of Richard II., the council, after hearing read the statute-roll of an act recently passed conferring a criminal jurisdiction in certain cases upon justices of the peace, declared that the intention of parliament, though not clearly expressed therein, had been to extend that jurisdiction to certain other cases omitted, which accordingly they caused to be inserted in the commissions made to these justices

under the great seal.* But they frequently so much exceeded what the growing spirit of public liberty would permit, that it gave rise to complaint in parliament. The commons petition, in 13 R. II., that “neither the chancellor nor the king’s council, after the close of parliament, may make any ordinance against the common law, or the ancient customs of the land, or the statutes made heretofore, or to be made in this parliament; but that the common law have its course for all the people, and no judgment be rendered without due legal process.” The king answers, “Let it be done as has been usual heretofore, saving the prerogative; and if any one is aggrieved, let him show it specially, and right shall be done him.”† This unsatisfactory answer proves the arbitrary spirit in which Richard was determined to govern.

The judicial power of the council was in some instances founded upon particular acts of parliament, giving it power to hear and determine certain causes. Many petitions likewise were referred to it from parliament, especially where they were left unanswered by reason of a dissolution. But, independently of this delegated authority, it is certain that the king’s council did anciently exercise, as well out of parliament as in it, a very great jurisdiction, both in causes criminal and civil. Some, however, have contended, that whatever they did in this respect was illegal, and an encroachment upon the common law, and

* Rot. Parl. vol. iii. p. 84.

† Rot. Parl. vol. iii. p. 266.

Magna Charta. -And, be the common law what it may, it seems an indisputable violation of the charter, in its most admirable and essential article, to drag men in questions of their freehold or liberty before a tribunal which neither granted them a trial by their peers, nor always respected the law of the land. Against this usurpation the patriots of those times never ceased to lift their voices. A statute of the fifth year of Edward III. provides that no man shall be attached, nor his property seized into the king's hands, against the form of the great charter, and the law of the land. In the twenty-fifth of the same king, it was enacted, that "none shall be taken by petition or suggestion to the king or his council, unless it be by indictment or presentment, or by writ original at the common law, nor shall be put out of his franchise or freehold, unless he be duly put to answer, and forejudged of the same by due course of law.* This was repeated in a short act of the twenty-eighth of his reign;† but both, in all probability, were treated with neglect; for another was passed some

* 25 E. III. stat. 5. c. 4. See the petition Rot. Parl. vol. ii. p. 228. which extends farther than the king's answer, or the statute. Probably this fifth statute of the 25th of Edward III. is the most extensively beneficial act in the whole body of our laws. It established certainty in treasons, regulated purveyance, prohibited arbitrary imprisonment and the determination of pleas of freehold before the council, took away the compulsory finding of men at arms and other troops, confirmed the reasonable aid of the king's tenants fixed by 3 E. I. and provided that the king's protection should not hinder civil process or execution.

† 28 E. III. c. 3.

years afterwards, providing, that no man shall be put to answer without presentment before justices, or matter of record, or by due process and writ, original according to the old law of the land. The answer to the petition whereon this statute is grounded, in the parliament-roll, expressly declares this to be an article of the great charter.* Nothing, however, would prevail on the council to surrender so eminent a power, and, though usurped, yet of so long continuance. Cases of arbitrary imprisonment frequently occurred, and were remonstrated against by the commons. The right of every freeman in that cardinal point was as indubitable, legally speaking, as at this day; but the courts of law were afraid to exercise their remedial functions in defiance of so powerful a tribunal. After the accession of the Lancastrian family, these, like other grievances, became rather less frequent; but the commons remonstrate several times, even in the minority of Henry VI., against the council's interference in matters cognizable at

* 42 E. III. c. 3. and Rot. Parl. vol. ii. p. 295. It is not surprising, that the king's council should have persisted in these transgressions of their lawful authority, when we find a similar jurisdiction usurped by the officers of inferior persons. Complaint is made in the 18th of Richard II., that men were compelled to answer before *the council of divers lords and ladies*, for their freeholds and other matters cognizable at common law, and a remedy for this abuse is given by petition in chancery. stat. 15 R. II. c. 12. This act is confirmed with a penalty on its contraveners the next year. 16 R. II. c. 2. The private gaols which some lords were permitted by law to possess, and for which there was always a provision in their castles, enabled them to render this oppressive jurisdiction effectual.

common law.* In these later times, the civil jurisdiction of the council was principally exercised in conjunction with the chancery, and accordingly they are generally named together in the complaint. The chancellor having the great seal in his custody, the council usually borrowed its process from his court. This was returnable into chancery even where the business was depending before the council. Nor were the two jurisdictions less intimately allied in their character; each being of an equitable nature; and equity, as then practised, being little else than innovation and encroachment on the course of law. This part, long since the most important, of the chancellor's judicial function, cannot be traced beyond the time of Richard II. when the practice of feoffments to uses having been introduced, without any legal remedy to secure the cestui que use, or usufructuary, against his feoffees, the court of chancery undertook to enforce this species of contract by process of its own.†

* Rot. Parl. 17 R. II. vol. iii. p. 319.; 4 H. IV. p. 507.; 1 H. VI. vol. iv. p. 189.; 3 H. VI. p. 292.; 8 H. VI. p. 343.; 10 H. VI. p. 403.; 15 H. VI. p. 501. To one of these, (10 H. VI.) "that none should be put to answer for his freehold in parliament, nor before any court or council where such things are not cognizable by the law of the land," the king gave a denial. As it was less usual to refuse promises of this kind, than to forget them afterwards, I do not understand the motive of this.

† Hale's Jurisdiction of Lords' House, p. 46. Coke. 2 Inst. p. 553. The last author places this a little later. There is a petition of the commons, in the roll of the 4th of Henry IV. p. 511. that whereas many grantees and feoffees in trust for their grantors and feoffers, alienate or charge the tenements granted, *in which case there is no remedy, unless one is ordered by far-*

Such was the nature of the king's ordinary council in itself, as the organ of his executive sovereignty; and such the jurisdiction, which it habitually exercised. But it is also to be considered in its relation to the parliament, during whose session, either singly, or in conjunction with the lords' house, it was particularly conspicuous. The great officers of state, whether peers or not, the judges, the king's serjeant, and attorney-general were, from the earliest times, as the latter still continue to be, summoned by special writs to the upper house. But while the writ of a peer runs, *ad tractandum nobiscum et cum cæteris prælatis magnatibus et proceribus*; that directed to one of the judges is only, *ad tractandum nobiscum et cum cæteris de consilio nostro*; and the seats of the latter are upon the wooolsacks at one extremity of the house.

In the reigns of Edward I. and II. the council appear to have been the regular advisers of the king in passing laws, to which the houses of parliament had assented. The preambles of most statutes during this period express their concurrence. Thus, the statute Westm. I. is said to be the act of the king, by his

liament, that the king and lords would provide a remedy. This petition is referred to the king's council to advise of a remedy against the ensuing parliament. It may perhaps be inferred from hence, that the writ of *subpœna* out of chancery had not yet been applied to protect the *cestui que use*. But it is equally possible, that the commons, being disinclined to what they would deem an illegal innovation, were endeavouring to reduce these fiduciary estates within the pale of the common law, as was afterwards done by the statute of uses.

council, and by the assent of archbishops, bishops, abbots, priors, earls, barons, and all the commonalty of the realm being thither summoned. The statute of escheators, 29 E. I is said to be agreed by the council, enumerating their names, all whom appear to be judges or public officers. Still more striking conclusions are to be drawn from the petitions addressed to the council by both houses of parliament. In the 8th of Edward II. there are four petitions from the commons to the king and his council; one from the lords alone; and one in which both appear to have joined. Later parliaments of the same reign present us with several more instances of the like nature. Thus, in 18 E. II. a petition begins: "To our lord the king, and to his council, the archbishops, bishops, prelates, earls, barons, and others of the commonalty of England shew," &c.*

But from the beginning of Edward III.'s reign, it seems that the council and the lords' house in parliament were often blended together into one assembly. This was denominated the great council, being the lords spiritual and temporal, with the king's ordinary council annexed to them, as a council within a council. And even in much earlier times, the lords, as hereditary counsellors, were, either whenever they thought fit to attend, or on special summonses by the king, (it is hard to say which,) assistant members of this council, both for advice and for jurisdiction. This double capacity of the peerage, as members of

* Rot. Parl. vol. i. p. 416.

the parliament or legislative assembly, and of the deliberative and judicial council, throws a very great obscurity over the subject. However, we find that private petitions for redress were, even under Edward I., presented to the lords in parliament, as much as to the ordinary council. The parliament was considered a high court of justice, where relief was to be given in cases where the course of law was obstructed, as well as where it was defective. Hence the intermission of parliaments was looked upon as a delay of justice, and their annual meeting is demanded upon that ground. "The king," says Fleta, "has his court in his council, in his parliaments, in the presence of bishops, earls, barons, lords, and other wise men, where the doubtful cases of judgments are resolved, and new remedies are provided against new injuries, and justice is rendered to every man according to his desert."* In the third year of Edward II., receivers of petitions began to be appointed at the opening of every parliament, who usually transmitted them to the ordinary, but in some instances to the great council. These receivers were commonly three for England, and three for Ireland, Wales, Gascony, and other foreign dominions. There were likewise two corresponding classes of auditors or triers of petitions. These consisted partly of bishops or peers, partly of judges and other members of the council; and they seem to have been instituted in order to disburthen the council, by giving

* 1. ii. c. 2.

answers to some petitions. But about the middle of Edward III.'s time, they ceased to act juridically in this respect, and confined themselves to transmitting petitions to the lords or the council.

The Great Council according to the definition we have given, consisting of the lords spiritual and temporal, in conjunction with the ordinary council, or, in other words, of all who were severally summoned to parliament, exercised a considerable jurisdiction, as well civil as criminal. In this jurisdiction, it is the opinion of Sir M. Hale, that the council, though not peers, had right of suffrage; an opinion very probable, when we recollect that the council, by themselves, both in and out of parliament, possessed, in fact, a judicial authority little inferior; and that the king's delegated sovereignty in the administration of justice, rather than any intrinsic right of the peerage, is the foundation on which the judicature of the lords must be supported. But in the time of Edward III. or Richard II., the lords, by their ascendancy, threw the judges and the rest of the council into shade, and took the decisive jurisdiction entirely to themselves, making use of their former colleagues but as assistants and advisers, as they still continue to be held in all the judicial proceedings of that house.

Those statutes which restrain the king's ordinary council from disturbing men in their freehold rights, or questioning them for misdemeanours, have an equal application to the lords' house in parliament,

though we do not frequently meet with complaints of the encroachments made by that assembly. There was, however, one class of cases tacitly excluded from the operation of those acts, in which the coercive jurisdiction of this high tribunal had great convenience; namely, where the ordinary course of justice was so much obstructed by the defending party, through riots, combinations of maintenance, or overawing influence, that no inferior court would find its process obeyed. Those ages, disfigured, in their quietest season, by rapine and oppression, afforded no small number of cases that called for this interposition of the crown and parliament.* They do not occur so frequently, however, in the rolls of parliament after the reign of Henry IV.; whether this be attributed to the gradual course of civilization, and to the comparative prosperity which England enjoyed under the line of Lancaster, or rather to the discontinuance of the lords' jurisdiction. Another indubitable branch of this jurisdiction was in writs of error; but it may be observed, that their determination was very frequently left to a select committee of peers and counsellors. These too cease almost entirely with Henry IV.; and were scarcely revived till the accession of James I.

* This is remarkably expressed in one of the articles agreed in parliament 8 H. VI. for the regulation of the council. "Item that alle the billes that comprehend matters terminable atte the common lawe, shall be remitted ther to be determind; but if so be, that the discesion of the counseill fele to grete myght on that o syde, and unmyght on that other, or elles other cause reasonable yat shal move him." Rot. Parl. vol. iv. p. 343.

Some instances occur in the reign of Edward III., where records have been brought into parliament, and annulled with assent of the commons as well as the rest of the legislature.* But these were attainders of treason, which it seemed gracious and solemn to reverse in the most authentic manner. Certainly the commons had neither by the nature of our constitution, nor the practice of parliament, any right of intermeddling in judicature; save where something was required beyond the existing law, or where, as in the statute of treasons, an authority of that kind was particularly reserved to both houses. This is fully acknowledged by themselves in the first year of Henry IV.† But their influence upon the balance of government became so commanding in a few years afterwards, that they contrived, as has been mentioned already, to have petitions directed to them, rather than to the lords or council, and to transmit them either with a tacit approbation, or in the form of acts, to the upper house. Perhaps this encroachment of the commons may have contributed to the disuse of the lords' jurisdiction, who would rather relinquish

* The judgment against Mortimer was reversed at the suit of his son, 28 E. III. because he had not been put on his trial. The peers had adjudged him to death in his absence, upon common notoriety of his guilt. 4 E. III. p. 53. In the same session of 28 E. III. the earl of Arundel's attainder was also reversed, which had passed in 1 E. III., when Mortimer was at the height of his power. These precedents taken together seem to have resulted from no partiality, but a true sense of justice in respect of treasons animated by the recent statute. Rot. Parl. vol ii. p. 256.

† Rot. Parl. vol. iii. p. 427.

their ancient and honourable, but laborious function, than share it with such bold usurpers.

Although the restraining hand of parliament was continually growing more effectual, and the notions of legal right acquiring more precision, from the time of Magna Charta to the civil wars under Henry VI., we may justly say, that the general tone of administration was not a little arbitrary. The whole fabric of English liberty rose step by step, through much toil, and many sacrifices; each generation adding some new security to the work, and trusting that posterity would perfect the labour as well as enjoy the reward. A time perhaps was even then foreseen, in the visions of generous hope, by the brave knights of parliament, and by the sober sages of justice, when the proudest ministers of the crown should recoil from those barriers, which were then daily pushed aside with impunity.

There is a material distinction to be taken between the exercise of the king's undeniable prerogative, however repugnant to our improved principles of freedom, and the abuse or extension of it to oppressive purposes. For we cannot fairly consider as part of our ancient constitution, what the parliament was perpetually remonstrating against, and the statute-book is full of enactments to repress. Doubtless the continual acquiescence of a nation in arbitrary government may ultimately destroy all privileges of positive institution, and leave them to recover, by such means as opportunity shall offer, the natural

and imprescriptible rights for which human societies were established. And this may perhaps be the case at present with many European kingdoms. But it would be necessary to shut our eyes with deliberate prejudice against the whole tenor of the most unquestionable authorities, against the petitions of the commons, the acts of the legislature, the testimony of historians and lawyers, before we could assert that England acquiesced in those abuses and oppressions, which it must be confessed she was unable fully to prevent.

The word prerogative is of a peculiar import, and scarcely understood by those who come from the studies of political philosophy. We cannot define it by any theory of executive functions. All these may be comprehended in it, but also a great deal more. It is best perhaps to be understood by its derivation; and has been said to be that law in case of the king, which is law in no case of the subject.* Of the higher and more sovereign prerogatives, I shall here say nothing; they result from the nature of a monarchy, and have nothing very peculiar in their character. But the smaller rights of the crown show better the original lineaments of our constitution. It is said commonly enough, that all prerogatives are given for the subject's good. I must confess that no part of this assertion corresponds with my view of the subject. It neither appears to me that these prerogatives were ever given, nor that they

* Blackstone's Comment. from Finch, vol. i. chap. 7.

necessarily redound to the subject's good. Prerogative, in its old sense, might be defined an advantage obtained by the crown over the subject, in cases where their interests came into competition, by reason of its greater strength. This sprang from the nature of the Norman government, which rather resembled a scramble of wild beasts, where the strongest takes the best share, than a system founded upon principles of common utility. And, modified as the exercise of most prerogatives has been by the more liberal tone which now pervades our course of government, whoever attends to the common practice of courts of justice, and still more whoever consults the law-books, will not only be astonished at their extent and multiplicity, but very frequently at their injustice and severity.

The real prerogatives that might formerly be exerted were sometimes of so injurious a nature, that we can hardly separate them from their abuse. A striking instance is that of purveyance, which will at once illustrate the definition above given of a prerogative, the limits within which it was to be exercised, and its tendency to transgress them. This was a right of purchasing whatever was necessary for the king's household, at a fair price, in preference to every competitor, and without the consent of the owner. By the same prerogative, carriages and horses were impressed for the king's journeys, and lodgings provided for his attendants. This was defended on a pretext of necessity, or at least of great convenience

to the sovereign, and was both of high antiquity and universal practice throughout Europe. But the royal purveyors had the utmost temptation, and doubtless no small store of precedents, to stretch this power beyond its legal boundary; and not only to fix their own price too low, but to seize what they wanted without any payment at all, or with tallies which were carried in vain to an empty exchequer.* This gave rise to a number of petitions from the commons, upon which statutes were often framed; but the evil was almost incurable in its nature, and never ceased till that prerogative was itself abolished. Purveyance, as I have already said, may serve to distinguish the defects from the abuses of our constitution. It was a reproach to the law, that men should be compelled to sell their goods without their consent; it was a reproach to the administration, that they were deprived of them without payment.

The right of purchasing men's goods for the use

* Letters are directed to all the sheriffs, 2 Edw. I. enjoining them to send up a certain number of beeves, sheep, capons, &c. for the king's coronation. Rymer, vol. ii. p. 21. By the statute 21 Edw. III. c. 12. goods taken by the purveyors were to be paid for on the spot, if under twenty shillings value, or within three months time, if above that value. But it is not to be imagined that this law was or could be observed.

Edward III. impelled by the exigencies of his French war, went still greater lengths, and siezed large quantities of wool, which he sold beyond sea, as well as provisions for the supply of his army. In both cases the proprietors had tallies, or other securities; but their despair of obtaining payment gave rise, in 1338, to an insurrection. There is a singular apologetical letter of Edward to the archbishops on this occasion. Rymer, t. v. p. 10. See also p. 73. and Knyghton, col. 2570.

of the king was extended by a sort of analogy to their labour. Thus Edward III. announces to all sheriffs, that William of Walsingham had a commission to collect as many painters as might suffice for "our works in St. Stephen's chapel, Westminster, to be at our wages as long as shall be necessary;" and to arrest and keep in prison all who should refuse or be refractory; and enjoins them to lend their assistance.* Windsor Castle owes its massive magnificence to labourers impressed from every part of the kingdom. There is even a commission from Edward IV. to take as many workmen in gold as were wanting, and employ them at the king's cost upon the trappings of himself and his household.†

Another class of abuses intimately connected with unquestionable, though oppressive, rights of the crown, originated in the feudal tenure which bound all the lands of the kingdom. The king had indisputably a right to the wardship of his tenants in chivalry, and to the escheats or forfeitures of persons dying without heirs or attainted for treason. But his officers, under pretence of wardship, took possession of lands not held immediately of the crown, claimed escheats where a right heir existed, and seized estates as forfeited, which were protected by the statute of entails. The real owner had no remedy against this dispossession, but to prefer his petition of right in chancery, or, which was probably more effectual, to procure a remonstrance of the house of

* Rymer, t. vi. p. 417.

† Idem, t. xi. p. 852.

commons in his favour. Even where justice was finally rendered to him, he had no recompense for his damages; and the escheators were not less likely to repeat an iniquity by which they could not personally suffer.

The charter of the forests, granted by Henry III. along with Magna Charta,* had been designed to crush the flagitious system of oppression, which prevailed in those favourite haunts of the Norman kings. They had still, however, their peculiar jurisdiction, though from the time at least of Edward III., subject in some measure to the controul of the king's bench.† The foresters, I suppose, might find a compensation for their want of the common law, in that easy and licentious way of life which they affected; but the neighbouring cultivators frequently suffered from the king's officers, who attempted to recover those adjacent lands, or, as they were called, purlieus, which had been disafforested by the charter,

* Matthew Paris asserts, that John granted a separate forest-charter, and supports his position by inserting that of Henry III. at full length. In fact the clauses relating to the forests were incorporated with the great charter of John. Such an error as this shews the precariousness of historical testimony even where it seems to be best grounded.

† Coke, 4th Inst. p. 294. The forest domain of the king, says the author of the Dialogue on the Exchequer under Henry II., is governed by its own laws, not founded on the common law of the land, but the voluntary enactment of princes; so that whatever is done by that law is reckoned not legal in itself but legal according to forest law. p. 29. non justum absolute sed justum secundum legem forestæ dicatur. I believe my translation of *justum* is right; for he is not writing satirically.

and protected by frequent perambulations. Many petitions of the commons relate to this grievance.

The constable and marshal of England possessed a jurisdiction, the proper limits whereof were sufficiently narrow, as it seems to have extended only to appeals of treason committed beyond sea, which were determined by combat, and to military offences within the realm. But these high officers frequently took upon them to inquire of treasons and felonies cognizable at common law, and even of civil contracts or trespasses. This is no bad illustration of the state in which our constitution stood under the Plantagenets. No colour of right or of supreme prerogative was set up to justify a procedure so manifestly repugnant to the great charter. For all remonstrances against these encroachments, the king gave promises in return; and a statute was enacted, in the 13th of Richard II., declaring the bounds of the constable and marshal's jurisdiction.* It could not be denied, therefore, that all infringements of these acknowledged limits were illegal, even if they had a hundred fold more actual precedents in their favour than can be supposed. But the abuse by no means ceased after the passing of this statute, as several subsequent petitions, that it might be better regarded, will evince. One, as it contains a special instance, I shall insert. It is of the fifth year of Henry IV. "On several supplications and petitions made by the commons in parliament to our lord the king for Ben-

* 13 R. II. c. 2.

net Wilman, who is accused by certain of his ill-wishers, and detained in prison, and put to answer before the constable and marshal, against the statutes and the common law of England, our said lord the king, by the advice and assent of the lords in parliament, granted that the said Bennet should be treated according to the statutes and common law of England, notwithstanding any commission to the contrary, or accusation against him made before the constable and marshal." And a writ was sent to the justices of the king's bench with a copy of this article from the roll of parliament, directing them to proceed as they shall see fit according to the laws and customs of England.*

It must appear remarkable, that, in a case so manifestly within their competence, the court of king's bench should not have issued a writ of habeas corpus, without waiting for what may be considered as a particular act of parliament. But it is a natural effect of an arbitrary administration of government, to intimidate courts of justice.† A negative argu-

* Rot. Parl. vol. iii. p. 530.

† The apprehension of this compliant spirit in the ministers of justice led to an excellent act in 2 E. III. c. 8. that the judges shall not omit to do right for any command under the great or privy seal. And the conduct of Richard II., who sought absolute power by corrupting or intimidating them, produced another statute in the eleventh year of his reign, (c. 10) providing that neither letters of the king's signet, nor of the privy seal should from thenceforth be sent in disturbance of the law. An ordinance of Charles V., king of France, in 1369, directs the parliament of Paris to pay no regard to any letters under his seal suspending the course of legal procedure, but to consider

ment, founded upon the want of legal precedents, is certainly not conclusive, when it relates to a distant period, of which all the precedents have not been noted; yet it must strike us, that in the learned and zealous arguments of Sir Robert Cotton, Mr. Selden and others, against arbitrary imprisonment, in the great case of the habeas corpus, though the statute-law is full of authorities in their favour, we find no instance adduced, earlier than the reign of Henry VII., where the king's bench has released, or even bailed, persons committed by the council, or the constable, though it is unquestionable that such commitments were both frequent and illegal.*

them as surreptitiously obtained. Villaret, t. x. p. 175. This ordinance, which was sedulously observed, tended very much to confirm the independence and integrity of that tribunal.

* Cotton's Posthuma, p. 221. Howell's State Trials, vol. iii. p. 1. Hume quotes a grant of the office of constable to the earl of Rivers in 7 Edw. IV., and infers, unwarrantably enough, that "its authority was in direct contradiction to Magna Charta; and it is evident that no regular liberty could subsist with it. It involved a full dictatorial power, continually subsisting in the state." Hist. of England, c. 22. But by the very words of this patent, the jurisdiction given was only over such causes quæ in curia constabularii Angliæ ab antiquo, viz. tempore dicti Guilielmi conquæstoris, seu aliquo tempore citra, tractari, audiri, examinari aut decidi consueverunt aut *jure debuerant aut debent*. These are expressed, though not very perspicuously, in the statute 13 Ric. II. c. 22. that declares the constable's jurisdiction. And the chief criminal matter reserved by law to the court of this officer was treason committed out of the kingdom. In violent and revolutionary seasons, such as the commencement of Edward IV.'s reign, some persons were tried by martial law before the constable. But, in general, the exercise of criminal justice by this tribunal, though one of the abuses of the times, cannot be said to warrant the strong language adopted by Hume.

If I have faithfully represented thus far the history of our constitution, its essential character will appear to be a monarchy greatly limited by law, though retaining much power that was ill calculated to promote the public good, and swerving continually into an irregular course, which there was no restraint adequate to correct. But of all the notions that have been entertained as to the theory of this constitution, the least consonant to law and to history is that which considers the king as merely an hereditary executive magistrate, the first officer of the state. What advantages might result from such a form of government, this is not the place to discuss. But it certainly was not the ancient constitution of England. There was nothing in this, absolutely nothing, of a republican appearance. All seemed to grow out of the monarchy, and was referred to its advantage and honour. The voice of supplication, even in the stoutest disposition of the commons, was always humble; the prerogative was always named in large and pompous expressions. Still more naturally may we expect to find in the law-books even an obsequious deference to power; from judges who scarcely ventured to consider it as their duty to defend the subject's freedom, and who beheld the gigantic image of prerogative, in the full play of its hundred arms, constantly before their eyes. Through this monarchical tone which certainly pervades all our legal authorities, a writer, like Hume, accustomed to philosophical liberality as to the principles

of government, and to the democratical language which the modern aspect of the constitution and the liberty of printing have produced, fell hastily into the error of believing that all limitations of royal power during the fourteenth and fifteenth centuries were as much unsettled in law and in public opinion, as they were liable to be violated by force. Though a contrary position has been sufficiently demonstrated, I conceive, by the series of parliamentary proceedings which I have already produced, yet there is a passage in Sir John Fortescue's treatise *De Laudibus Legum Angliæ*, so explicit and weighty, that no writer on the English constitution can be excused from inserting it. This eminent person having been chief justice of the king's bench under Henry VI., was governor to the young prince of Wales during his retreat in France, and received at his hands the office of chancellor. It must never be forgotten, that, in a treatise purposely composed for the instruction of one who hoped to reign over England, the limitations of government are enforced as strenuously by Fortescue, as some succeeding lawyers have inculcated the doctrines of arbitrary prerogative.

“ A king of England cannot at his pleasure make any alterations in the law of the land, for the nature of his government is not only regal, but political. Had it been merely regal, he would have a power to make what innovations and alterations he pleased in the laws of the kingdom, impose tallages and other hardships upon the people whether they would or

no, without their consent, which sort of government the civil laws point out, when they declare *Quod principi placuit, legis habet vigorem*. But it is much otherwise with a king whose government is political, because he can neither make any alteration or change in the laws of the realm without the consent of the subjects, nor burthen them against their wills with strange impositions, so that a people governed by such laws as are made by their own consent and approbation enjoy their properties securely, and without the hazard of being deprived of them, either by the king or any other. The same things may be effected under an absolute prince, provided he do not degenerate into the tyrant. Of such a prince, Aristotle, in the third of his *Politics*, says, ‘It is better for a city to be governed by a good man, than by good laws.’ But because it does not always happen, that the person presiding over a people is so qualified, St. Thomas, in the book which he wrote to the king of Cyprus, *De Regimine Principum*, wishes, that a kingdom could be so instituted, as that the king might not be at liberty to tyrannize over his people; which only comes to pass in the present case; that is, when the sovereign power is restrained by political laws. Rejoice, therefore, my good prince, that such is the law of the kingdom to which you are to inherit, because it will afford, both to yourself and subjects, the greatest security and satisfaction.”*

* Fortescue, *De Laudibus Legum Angliæ*, c. 9.

The two great divisions of civil rule, the absolute, or regal, as he calls it, and the political, Fortescue proceeds to deduce from the several originals of conquest and compact. Concerning the latter, he declares emphatically a truth not always palatable to princes, that such governments were instituted by the people, and for the people's good; quoting St. Augustin for a similar definition of a political society. "As the head of a body natural cannot change its nerves and sinews, cannot deny to the several parts their proper energy, their due proportion and aliment of blood; neither can a king, who is the head of the body politic, change the laws thereof, nor take from the people what is theirs, by right, against their consent. Thus you have, sir, the formal institution of every political kingdom, from whence you may guess at the power which a king may exercise with respect to the laws and the subject. For he is appointed to protect his subjects in their lives, properties and laws; for this very end and purpose he has the delegation of power from the people; and he has no just claim to any other power but this. Wherefore, to give a brief answer to that question of your's, concerning the different powers which kings claim over their subjects, I am firmly of opinion that it arises solely from the different natures of their original institution, as you may easily collect from what has been said. So the kingdom of England had its original from Brute and the Trojans, who attended him from Italy and

Greece, and became a mixt kind of government, compounded of the regal and political."*

It would occupy too much space to quote every other passage of the same nature in this treatise of Fortescue, and in that entitled, *Of the Difference of an Absolute and Limited Monarchy*, which, so far as these points are concerned, is nearly a translation from the former.† But these, corroborated as they are by the statute-book and by the rolls of parliament, are surely conclusive against the notions which pervade Mr. Hume's *History*. I have already remarked that a sense of the glaring prejudice by which some whig writers had been actuated, in representing the English constitution from the earliest times as nearly arrived at its present perfection, conspired with certain prepossessions of his own to lead this eminent historian into an equally erroneous system on the opposite side. And as he traced the stream backwards, and came last to the times of the Plantagenet dynasty, with opinions already biassed, and even pledged to the world in his volumes of earlier publication, he was prone to seize hold of, and even exaggerate, every circumstance that indicated immature civilization, and law perverted or

* c. 13.

† The latter treatise, having been written under Edward IV., whom Fortescue, as a restored Lancastrian, would be anxious not to offend, and whom in fact he took some pains to conciliate both in this and other writings, it is evident, that the principles of limited monarchy were as fully recognized in his reign, whatever particular acts of violence might occur, as they had been under the Lancastrian princes.

infringed.* To this his ignorance of English jurisprudence, which certainly in some measure disqualified him from writing our history, did not a little contribute; misrepresentations frequently occurring in his work, which a moderate acquaintance with the law of the land would have prevented.

It is an honourable circumstance to England, that the history of no other country presents so few instances of illegal condemnations upon political charges. The judicial torture was hardly known, and never recognized by law.† The sentence in

* The following is one example of these prejudices: In the 9th of Richard II. a tax on wool granted till the ensuing feast of St. John Baptist was to be intermitted from thence to that of St. Peter, and then to re-commence; that it might not be claimed as a right. Rot. Par. v. iii. p. 214. Mr. Hume has noticed this provision; as “shewing an accuracy beyond what was to be expected in those *rudr* times.” In this epithet we see the foundation of his mistakes. The age of Richard II. might perhaps be called rude in some respects. But assuredly in prudent and circumspect perception of consequences, and an accurate use of language, there could be no reason why it should be deemed inferior to our own. If Mr. Hume had ever deigned to glance at the legal decisions reported in the Year-books of those times, he would have been surprized, not only at the utmost *accuracy*, but at a subtle refinement in verbal logic, which none of his own metaphysical treatises could surpass.

† During the famous process against the knights templars in the reign of Edward II. the archbishop of York, having taken the examination of certain templars in his province, felt some doubts which he propounded to several monasteries and divines. Most of these relate to the main subject. But one question, fitter indeed for lawyers than theologians, was, whereas many would not confess without torture, whether he might make use of this means, *licet hoc in regno Angliæ nunquam visum fuerit vel auditum?* Et si torquendi sunt, utrum per

capital crimes, fixed unalterably by custom, allowed nothing to vindictiveness and indignation. There hardly occurs an example of any one being notoriously put to death without form of trial, except in moments of flagrant civil war. If the rights of juries were sometimes evaded by irregular jurisdictions, they were at least held sacred by the courts of law; and through all the vicissitudes of civil liberty, no one ever questioned the primary right of every freeman, handed down from his Saxon forefathers, to the trial by his peers. A just regard for public safety prescribes the necessity of severe penalties against rebellion and conspiracy; but the interpretation of these offences, when entrusted to sovereigns and their counsellors, has been the most tremendous instrument of despotic power. In rude ages, even though a general spirit of political liberty may prevail, the legal character of treason will commonly be undefined; nor is it the disposition of lawyers to give greater accuracy to this part of criminal jurisprudence. The nature of treason appears to have been subject to much uncertainty in England before the statute of Edward III. If that memorable law did not give all possible precision to the offence, which we must certainly allow, it prevented at least those stretches of vindictive tyranny which disgrace the annals of other countries. The praise, however, must be understood as comparative. Some cases of harsh

clericos vel laicos? Et dato, quod *nullus omnino torto: inveniri valeat* in Anglia, utrum pro tortoribus mittendum sit ad partes transmarinas? Walt. Hemingford, p. 256.

if not illegal convictions could hardly fail to occur, in times of violence and during changes of the reigning family. Perhaps the circumstances have now and then been aggravated by historians. Nothing could be more illegal than the conviction of the earl of Cambridge and Lord Scrop in 1415, if it be true, according to Carte and Hume, that they were not heard in their defence. But, whether this is to be absolutely inferred from the record* is perhaps open to question. There seems at least to have been no sufficient motive for such an irregularity; their participation in a treasonable conspiracy being manifest from their own confession. The proceedings against Sir John Mortimer in the 2d of Henry VI.† are called by Hume highly irregular and illegal. They were, however, by act of attainder, which cannot well be styled illegal. Nor are they to be considered as severe. Mortimer had broken out of the Tower, where he was confined on a charge of treason. This was a capital felony at common law; and the chief irregularity seems to have consisted in having recourse to parliament in order to attain him of treason, when he had already forfeited his life by another crime.

I would not willingly attribute to the prevalence of Tory dispositions what may be explained otherwise, the progress which Mr. Hume's historical theory as to our constitution has been gradually making since its publication. The tide of opinion, which since the

* Rot. Parl. vol. iv. p. 65. † Id. p. 202.

Revolution, and indeed since the reign of James I., had been flowing so strongly, in favour of the antiquity of our liberties, now seems, among the higher and more literary classes, to set pretty decidedly the other way. Though we may still sometimes hear a demagogue chattering about the wittenagemot, it is far more usual to find sensible and liberal men who look on Magna Charta itself as the result of an uninteresting squabble between the king and his barons. Acts of force and injustice, which strike the cursory inquirer, especially if he derives his knowledge from modern compilations, more than the average tenor of events, are selected and displayed as fair samples of the law and of its administration. We are deceived by the comparatively perfect state of our present liberties, and forget that our superior security is far less owing to positive law, than to the controul which is exercised over government by public opinion through the general use of printing, and to the diffusion of liberal principles in policy through the same means. Thus, disgusted at a contrast which it was hardly candid to institute, we turn away from the records that attest the real, though imperfect, freedom of our ancestors; and are willing to be persuaded, that the whole scheme of English polity, till the commons took on themselves to assert their natural rights against James I., was at best but a mockery of popular privileges, hardly recognized in theory, and never regarded in effect.

This system, when stripped of those slavish in-

ferences that Brady and Carte attempted to build upon it, admits perhaps of no essential objection but its want of historical truth. God forbid that our right to a just and free government should be tried by a jury of antiquaries! Yet it is a generous pride, that intertwines the consciousness of hereditary freedom with the memory of our ancestors; and no trifling argument against those who seem indifferent in its cause, that the character of the bravest and most virtuous among nations has not depended upon the accidents of race or climate, but been gradually wrought by the plastic influence of civil rights, transmitted as a prescriptive inheritance through a long course of generations.

By what means the English acquired and preserved this political liberty, which, even in the fifteenth century, was the admiration of judicious foreigners * is a very rational and interesting inquiry. Their own serious and steady attachment to the laws must always be reckoned among the principal causes of this blessing. The civil equality of all freemen below the rank of peerage, and the subjection of peers themselves to the impartial arm of justice, and to a just share in contribution to public burthens, advantages unknown to other countries, tended to identify the interests, and to assimilate the feelings of the aristocracy with those of the people; classes whose dissention and jealousy has been in

* Philip de Comines takes several opportunities of testifying his esteem for the English government. See particularly l. iv. c. i. and l. v. c. xix.

many instances the surest hope of sovereigns aiming at arbitrary power. This freedom from the oppressive superiority of a privileged order was peculiar to England. In many kingdoms the royal prerogative was at least equally limited. The statutes of Aragon are more full of remedial provisions. The right of opposing a tyrannical government by arms was more frequently asserted in Castile. But no where else did the people possess both by law, and I think upon the whole, in effect, so much security for their personal freedom and property. Accordingly, the middling ranks flourished remarkably, not only in commercial towns, but among the cultivators of the soil. "There is scarce a small village," says Sir J. Fortescue, "in which you may not find a knight, an esquire, or some substantial householder, (*paterfamilias*), commonly called a frankleyn,* possessed of considerable estate; besides others who are called freeholders, and many yeomen of estates sufficient to make a substantial jury." I would, however, point out more particularly two causes which had a very leading efficacy in the gradual developement of our

* By a frankleyn in this place we are to understand what we call a country squire, like the frankleyn of Chaucer; for the word esquire in Fortescue's time was only used in its limited sense, for the sons of peers and knights, or such as had obtained the title by creation or some other legal means.

The mention of Chaucer leads me to add, that the prologue to his *Canterbury Tales* is of itself a continual testimony to the plenteous and comfortable situation of the middle ranks in England, as well as to that fearless independence and frequent originality of character amongst them, which liberty and competence have conspired to produce.

constitution ; first, the schemes of continental ambition in which our government was long engaged ; secondly, the manner in which the feudal principles of insubordination and resistance were modified by the prerogatives of the early Norman kings.

1. At the epoch when William the Conqueror ascended the throne, hardly any other power was possessed by the king of France than what he inherited from the great fiefs of the Capetian family. War with such a potentate was not exceedingly to be dreaded, and William, besides his immense revenue, could employ the feudal services of his vassals, which were extended by him to continental expeditions. These circumstances were not essentially changed till after the loss of Normandy ; for the acquisitions of Henry II. kept him fully on an equality with the French crown, and the dilapidation which had taken place in the royal demesnes was compensated by several arbitrary resources that filled the exchequer of these monarchs. But in the reigns of John and Henry III., the position of England, or rather of its sovereign, with respect to France, underwent a very disadvantageous change. The loss of Normandy severed the connexion between the English nobility and the continent ; they had no longer estates to defend, and took not sufficient interest in the concerns of Guienne, to fight for that province at their own cost. Their feudal service was now commuted for an escuage, which fell very short of the expenses incurred in a protracted campaign. Tal-

lages of royal towns and demesne lands, extortion of money from the Jews, every feudal abuse and oppression were tried in vain to replenish the treasury, which the defence of Eleanor's inheritance against the increased energy of France was constantly exhausting. Even in the most arbitrary reigns, a general tax upon landholders, in any cases but those prescribed by the feudal law, had not been ventured; and the standing bulwark of Magna Charta, as well as the feebleness and unpopularity of Henry III., made it more dangerous to violate an established principle. Subsidies were, therefore, constantly required; but for these it was necessary for the king to meet parliament, to hear their complaints, and, if he could not elude, to acquiesce in their petitions. These necessities came still more urgently upon Edward I., whose ambitious spirit could not patiently endure the encroachments of Philip the Fair, a rival not less ambitious, but certainly less distinguished by personal prowess than himself. What advantage the friends of liberty reaped from this ardour for continental warfare is strongly seen in the circumstances attending the Confirmation of the Charters.

But after this statute had rendered all tallages without consent of parliament illegal, though it did not for some time prevent their being occasionally imposed, it was still more difficult to carry on a war with France or Scotland, to keep on foot naval armaments, or even to preserve the courtly magnificence which that age of chivalry affected, without

perpetual recurrence to the house of commons. Edward III. very little consulted the interests of his prerogative when he stretched forth his hand to seize the phantom of a crown in France. It compelled him to assemble parliament almost annually, and often to hold more than one session within the year. Here the representatives of England learned the habit of remonstrance and conditional supply ; and though, in the meridian of Edward's age and vigour, they often failed of immediate redress, yet they gradually swelled the statute-roll with provisions to secure their country's freedom ; and acquiring self-confidence by mutual intercourse, and sense of the public opinion, they became able, before the end of Edward's reign, and still more in that of his grandson, to controul, prevent, and punish the abuses of administration. Of all these proud and sovereign privileges, the right of refusing supply was the key-stone. But for the long wars in which our kings were involved, at first by their possession of Guienne, and afterwards by their pretensions upon the crown of France, it would have been easy to suppress remonstrances by avoiding to assemble parliament. For it must be confessed, than an authority was given to the king's proclamations, and to ordinances of the council, which differed but little from legislative power, and would very soon have been interpreted by complaisant courts of justice to give them the full extent of statutes.

It is common indeed to assert, that the liberties of England were bought with the blood of our forefathers. This is a very magnanimous boast; and in some degree is consonant enough to the truth. But it is far more generally accurate to say that they were purchased by money. A great proportion of our best laws, including Magna Charta itself, as it now stands confirmed by Henry III., were, in the most literal sense, obtained by a pecuniary bargain with the crown. In many parliaments of Edward III. and Richard II. this sale of redress is chaffered for as distinctly, and with as little apparent sense of disgrace, as the most legitimate business between two merchants would be transacted. So little was there of voluntary benevolence in what the loyal courtesy of our constitution styles concessions from the throne; and so little title have these sovereigns, though we cannot refuse our admiration to the generous virtues of Edward III. and Henry V., to claim the gratitude of posterity as the benefactors of their people!

2. The relation established between a lord and his vassal by the feudal tenure, far from containing principles of any servile and implicit obedience, permitted the compact to be dissolved in case of its violation by either party. This extended as much to the sovereign as to inferior lords; the authority of the former in France, where the system most flourished, being for several ages rather feudal than political. If a vassal was aggrieved, and if justice was

denied him, he sent a defiance, that is, a renunciation of fealty to the king, and was entitled to enforce redress at the point of his sword. It then became a contest of strength as between two independent potentates, and was terminated by treaty, advantageous or otherwise, according to the fortune of war. This privilege, suited enough to the situation of France, the great peers of which did not originally intend to admit more than a nominal supremacy in the house of Capet, was evidently less compatible with the regular monarchy of England. The stern natures of William the Conqueror and his successors kept in controul the mutinous spirit of their nobles, and reaped the profit of feudal tenures, without submitting to their reciprocal obligations. They counteracted, if I may so say, the centrifugal force of that system by the application of a stronger power; by preserving order, administering justice, checking the growth of baronial influence and riches, with habitual activity, vigilance and severity. Still, however, there remained the original principle, that allegiance depended conditionally upon good treatment, and that an appeal might be lawfully made to arms against an oppressive government. Nor was this, we may be sure, left for extreme necessity, or thought to require a long enduring forbearance. In modern times, a king compelled by his subjects' swords to abandon any pretension would be supposed to have ceased to reign; and the express recognition of such a right as that of insurrection has been justly deemed incon-

sistent with the majesty of law. But ruder ages had ruder sentiments. Force was necessary to repel force; and men accustomed to see the king's authority defied by private riot were not much shocked when it was resisted in defence of public freedom.

The Great Charter of John was secured by the election of twenty-five barons, as conservators of the compact. If the king, or the judiciary in his absence, should transgress any article, any four might demand reparation, and on denial carry their complaint to the rest of their body. "And those barons, with all the commons of the land, shall distrain and annoy us by every means in their power; that is, by seizing our castles, lands and possessions, and every other mode, till the wrong shall be repaired to their satisfaction; saving our person, and our queen, and children. And when it shall be repaired, they shall obey us as before."* It is amusing to see the common law of distress introduced upon this gigantic scale; and the capture of the king's castles treated as analogous to impounding a neighbour's horse for breaking fences.

A very curious illustration of this feudal principle is found in the conduct of William earl of Pembroke, one of the greatest names in our ancient history, towards Henry III. The king had defied him, which was tantamount to a declaration of war; alleging that he had made an inroad upon the royal domains. Pembroke maintained that he was not the aggressor,

* Brady's Hist. vol. i. Appendix, p. 148.

that the king had denied him justice, and been the first to invade his territory; on which account he had thought himself absolved from his homage, and at liberty to use force against the malignity of the royal advisers. "Nor would it be for the king's honour," the earl adds, "that I should submit to his will against reason, whereby I should rather do wrong to him and to that justice which he is bound to administer towards his people: And I should give an ill example to all men, in deserting justice and right, in compliance with his mistaken will. For this would shew that I loved my worldly wealth better than justice." These words, with whatever dignity expressed, it may be objected, prove only the disposition of an angry and revolted earl. But even Henry fully admitted the right of taking arms against himself, if he had meditated his vassal's destruction, and disputed only the application of this maxim to the earl of Pembroke.*

These feudal notions, which placed the moral obligation of allegiance very low, acting under a weighty pressure from the real strength of the crown, were favourable to constitutional liberty. The great vassals of France and Germany aimed at living independently on their fiefs, with no further concern for the rest, than as useful allies, having a common interest against the crown. But in England, as there was no prospect of throwing off subjection, the ba-

* Matt. Paris, p. 330. Lyttleton's Hist. of Henry II. vol. iv. p. 41.

rons endeavoured only to lighten its burthen, fixing limits to prerogative by law, and securing their observation by parliamentary remonstrances, or by dint of arms. Hence, as all rebellions in England were directed only to coerce the government, or, at the utmost, to change the succession of the crown, without the smallest tendency to separation, they did not impair the national strength, nor destroy the character of the constitution. In all these contentions, it is remarkable that the people and clergy sided with the nobles against the throne. No individuals are so popular with the monkish annalists, who speak the language of the populace, as Simon earl of Leicester, Thomas earl of Lancaster, and Thomas duke of Gloucester, all turbulent opposers of the royal authority, and probably little deserving of their panegyrics. Very few English historians of the middle ages are advocates of prerogative. This may be ascribed both to the equality of our laws, and to the interest which the aristocracy found in courting popular favour, when committed against so formidable an adversary as the king. And even now, when the stream, that once was hurried along gullies, and dashed down precipices, hardly betrays, upon its broad and tranquil bosom, the motion that actuates it, it must still be accounted a singular happiness of our constitution, that, all ranks graduating harmoniously into one another, the interests of peers and commoners are radically interwoven; each in a certain sense distinguishable, but not balanced like

opposite weights, not separated like discordant fluids, not to be secured by insolence or jealousy, but by mutual adherence and reciprocal influences.

From the time of Edward I. the feudal system and all the feelings connected with it declined very rapidly. But what the nobility lost in the number of their military tenants was in some degree compensated by the state of manners. The higher class of them, who took the chief share in public affairs, were exceedingly opulent; and their mode of life gave wealth an incredibly greater efficacy than it possesses at present. Gentlemen of large estates and good families, who had attached themselves to these great peers, who bore offices, which we should call menial, in their households, and sent their children thither for education, were of course ready to follow their banner in a rising, without much inquiry into the cause. Still less would the vast body of tenants, and their retainers, who were fed at the castle in time of peace, refuse to carry their pikes and staves into the field of battle. Many devices were used to preserve this aristocratic influence, which riches and ancestry of themselves rendered so formidable. Such was the maintenance of suits, or confederacies for the purpose of supporting each other's claims in litigation, which was the subject of frequent complaints in parliament, and gave rise to several prohibitory statutes. By help of such confederacies, parties were enabled to make violent entries upon the lands they claimed, which the law itself could hardly be said

to discourage.* Even proceedings in courts of justice were often liable to intimidation and influence.† A practice much allied to confederacies of maintenance, though ostensibly more harmless, was that of giving liveries to all retainers of a noble family; but it had an obvious tendency to preserve that spirit of factious attachment and animosities, which it is the general policy of a wise government to dissipate. From the first year of Richard II. we find continual mention of this custom, with many legal provisions against it, but it was never abolished till the reign of Henry VII.‡

* If a man was disseised of his land, he might enter upon the disseisor, and reinstate himself without course of law. In what cases this right of entry was taken away, or *toll'd*, as it was expressed, by the death or alienation of the disseisor is a subject extensive enough to occupy two chapters of Lyttleton. What pertains to our inquiry, is that by an entry, in the old law-books, we must understand an actual re-possession of the disseisee, not suit in ejectment, as it is now interpreted, but which is a comparatively modern proceeding. The first remedy, says Britton, of the disseisee, is to collect a body of his friends, (*recoiller amys et force*) and without delay to cast out the disseisors, or at least to maintain himself in possession along with them. c. 44. This entry ought indeed by 5 Ric. II. stat i. c. 8. to be made peaceably; and the justices might assemble the *posse comitatus*, to imprison persons entering on lands by violence, (15 Ric. II. c. 2.) but these laws imply the facts that made them necessary.

† No lord or other person, by 20 Ric. II. c. 3., was permitted to sit on the bench with the justices of assize. Trials were sometimes over-awed by armed parties, who endeavoured to prevent their adversaries from appearing. Paston Letters, vol. iii. p. 119.

‡ From a passage in the Paston Letters, (vol. II. p. 23., it appears that, far from these acts being regarded, it was considered as a mark of respect to the king, when he came into a county, for the noblemen and gentry to meet him with as many attend-

These associations under powerful chiefs were only incidentally beneficial as they tended to withstand the abuses of prerogative. In their more usual course, they were designed to thwart the legitimate exercise of the king's government in the administration of the laws. All Europe was a scene of intestine anarchy during the middle ages; and though England was far less exposed to the scourge of private war than most nations on the continent, we should find, could we recover the local annals of every country, such an accumulation of petty rapine and tumult, as would almost alienate us from the liberty which served to engender it. This was the common tenor of manners, sometimes so much aggravated as to find a place in general history,* more often attested by records, during the three centuries that the house of Plantagenet sat on the throne. **Disseisin**, or forcible dispossession of freeholds,

ants in livery as they could muster. Sir John Paston was to provide twenty men in their livery-gowns, and the duke of Norfolk two hundred. This illustrates the well-known story of Henry VII. and the earl of Oxford, and shews the mean and oppressive conduct of the king in that affair, which Hume has pretended to justify.

In the first of Edward IV. it is said in the roll of parliament, (vol. v. p. 407.) that, "by yevyng of liveries and signes, contrary to the statutes and ordinances made aforetyme, maintenance of quarrels, extortions, robberies, murders been multiplied and continued within this reame, to the greate disturbance and inquietation of the same."

* Thus, to select one passage out of many: *Eodem anno (1332) quidam maligni fulti quorundam magnatum præsidio, regis adolescentiam spernantes, et regnum perturbare, intendentes, in tantam turbam creverunt, nemora et saltus occupaverunt, ita quod toti regno terrori essent.* Walsingham, p. 132.

makes one of the most considerable articles in our law-books.* Highway robbery was from the earliest times a sort of national crime. Capital punishments, though very frequent, made little impression on a bold and licentious crew, who had at least the sympathy of those who had nothing to lose on their

* I am aware that in many, probably a great majority of reported cases, this word was technically used, where some unwarranted conveyance, such as feoffment by the tenant for life, was held to have wrought a disseisin; or where the plaintiff was allowed, for the purpose of a more convenient remedy, to feign himself disseised, which was called disseisin by election. But several proofs might be brought from the parliamentary petitions, and I doubt not, if nearly looked at, from the Year-books, that in other cases there was an actual and violent expulsion. And the definition of disseisin in all the old writers, such as Britton and Littleton, is obviously framed upon its primary meaning of violent dispossession, which the word had probably acquired long before the more peaceable disseisins, if I may use the expression, became the subject of the remedy by assise.

I would speak with deference of Lord Mansfield's elaborate judgment in *Taylor dem. Atkins v. Horde*, 1 Burrow 107, &c.; but some positions in it appear to me rather too strongly stated; and particularly, that the acceptance of the disseisor as tenant by the lord was necessary to render the disseisin complete; a condition, which I have not found hinted in any law-book. See Butler's note on *Co. Litt.* p. 330.; where that eminent lawyer expresses similar doubts as to Lord Mansfield's reasoning. It may however be remarked, that constructive, or elective disseisins, being of a technical nature, were more likely to produce cases in the Year-books, than those accompanied with actual violence, which would commonly turn only on matters of fact, and be determined by a jury.

A remarkable instance of violent disseisin, amounting in effect to a private war, may be found in the Paston Letters, occupying most of the fourth volume. One of the Paston family, claiming a right to Caister Castle, kept possession against the duke of Norfolk, who brought a large force, and laid a regular siege to the place, till it surrendered for want of provisions. Two of the besiegers were killed. It does not appear that any legal measures were taken to prevent or punish this outrage.

side, and flattering prospects of impunity. We know how long the outlaws of Sherwood lived in tradition; men, who, like some of their betters, have been permitted to redeem by a few acts of generosity the just ignominy of extensive crimes. These indeed were the heroes of vulgar applause; but when such a judge as Sir John Fortescue could exult that more Englishmen were hanged for robbery in one year, than French in seven, and that “if an Englishman be poor, and see another having riches, which may be taken from him by might, he will not spare to do so,”* it may be perceived how thoroughly these sentiments had pervaded the public mind.

Such robbers, I have said, had flattering prospects of impunity. Besides the general want of communication, which made one who had fled from his own neighbourhood tolerably secure, they had the advantage of extensive forests to facilitate their depredations, and prevent detection. When outlawed, or brought to trial, the worst offenders could frequently purchase charters of pardon, which defeated justice in the moment of her blow.† Nor were the nobility

* Difference between an Absolute and Limited Monarchy, p. 99.

† The manner in which these were obtained, in spite of law, may be noticed among the violent courses of prerogative. By statute II. E. III. c. 2. confirmed by 10 E. III. c. 2. the king's power of granting pardons was taken away, except in cases of homicide per infortunium. Another act, 14 E. III. c. 15., reciting that the former laws in this respect have not been kept, declares that all pardons contrary to them shall be holden as null. This however was disregarded, like the rest; and the commons began tacitly to recede from them, and endeavour to

ashamed to patronize men guilty of every crime. Several proofs of this occur in the rolls. Thus, for example, in the 22d of Edward III., the commons pray, that “whereas it is notorious how robbers and malefactors infest the country, the king would charge the great men of the land, that none such be maintained by them, privily or openly, but that they lend assistance to arrest and take such ill doers.”*

compromise the question with the crown. By 27 E. III. stat. 1. c. 2., without adverting to the existing provisions, which may therefore seem to be repealed by implication, it is enacted that in every charter of pardon, granted at any one’s suggestion, the suggestor’s name, and the grounds of his suggestion shall be expressed, that if the same be found untrue, it may be disallowed. And in 13 R. II. stat. 2. c. 1. we are surprised to find the commons requesting that pardons might not be granted, as if the subject were wholly unknown to the law; the king protesting in reply, that he will save his liberty and regality, as his progenitors had done before, but conceding some regulations, far less remedial than what were provided already by the 27th of Edw. II. Pardons make a pretty large head in Brooke’s Abridgement, and were undoubtedly granted without scruple by every one of our kings. A pardon obtained in a case of peculiar atrocity is the subject of a specific remonstrance in 23 H. VI. Rot. Parl. vol. v. p. 111.

* Rot. Parl. vol. ii. p. 201. A strange policy, for which no rational cause can be alleged, kept Wales, and even Cheshire, distinct from the rest of the kingdom. Nothing could be more injurious to the adjacent countries. Upon the credit of their immunity from the jurisdiction of the king’s courts, the people of Cheshire broke with armed bands into the neighbouring counties, and perpetrated all the crimes in their power. Rot. Parl. vol. iii. pp. 81. 201. 440. Stat. 1 H. IV. c. 18. As to the Welsh frontier, it was constantly almost in a state of war, which a very little good sense and benevolence in any one of our shepherds would have easily prevented, by admitting the conquered people to partake in equal privileges with their fellow-subjects. Instead of this, they satisfied themselves with aggravating the mischief by granting legal reprisals upon Welshmen. Stat. 2 H.

It is perhaps the most meritorious part of Edward I.'s government, that he bent all his power to restrain these breaches of tranquillity. One of his salutary provisions is still in constant use, the statute of coroners. Another more extensive, and, though partly obsolete, the foundation of modern laws, is the statute of Winton, which, reciting, that "from day to day robberies, murders, burnings and theft be more often used than they have been heretofore, and felons cannot be attainted by the oath of jurors which had rather suffer robberies on strangers to pass without punishment, than indict the offenders, of whom great part be people of the same country, or at the least, if the offenders be of another country, the receivers be of places near," enacts that hue and cry shall be made upon the commission of a robbery, and that the hundred shall remain answerable for the damage, unless the felons be brought to justice. It may be

IV. c. 16. Welshmen were absolutely excluded from bearing offices in Wales. The English living in the English towns of Wales earnestly petition, 23 H. VI. Rot. Parl. vol. v. p. 104. 154. that this exclusion may be kept in force. Complaints of the disorderly state of the Welsh frontier are repeated as late as 12 Edw. IV. vol. vi. p. 8.

It is curious that so early as 15 Edw. II., a writ was addressed to the earl of Arundel, justiciary of Wales, directing him to cause twenty-four discreet persons to be chosen from the north, and as many from the south of that principality, to serve in parliament. Rot. Parl. vol. i. p. 456. And we find a similar writ in the 20th of the same king. Prynne's Register, 4th part. p. 60. Willis says, that he has seen a return to one of these precepts, much obliterated, but from which it appears, that Conway, Beaumaris, and Carnarvon returned members. *Notitia Parliamentaria*, vol. i. preface, p. 15.

inferred from this provision, that the ancient law of frank-pledge, though retained longer in form, had lost its efficacy. By the same act, no stranger or suspicious person was to lodge even in the suburbs of towns; the gates were to be kept locked from sunset to sunrising; every host to be answerable for his guest; the highways to be cleared of trees and underwood for two hundred feet on each side; and every man to keep arms, according to his substance, in readiness to follow the sheriff on hue and cry raised after felons.* The last provision indicates that the robbers plundered the country in formidable bands. One of these, in a subsequent part of Edward's reign, burned the town of Boston during a fair, and obtained a vast booty, though their leader had the ill fortune not to escape the gallows.

The preservation of order throughout the country was originally entrusted, not only to the sheriff, coroner, and constables, but to certain magistrates, called conservators of the peace. These, in conformity to the democratic character of our Saxon government, were elected by the freeholders in their county-court.† But Edward I. issued commissions to carry into effect the statute of Winton; and from the beginning of Edward III.'s reign, the appointment of conservators was vested in the crown, their authority gradually enlarged by a series of statutes, and their

* The statute of Winton was confirmed, and proclaimed afresh by the sheriffs, 7 R. II. c. 6. after an æra of great disorder.

† Blackstone, vol. i. c. 9. Carte, vol. ii. p. 203.

title changed to that of justices. They were empowered to imprison and punish all rioters and other offenders, and such as they should find by indictment, or suspicion, to be reputed thieves or vagabonds; and to take sureties for good behaviour from persons of evil fame.* Such a jurisdiction was hardly more arbitrary than, in our free and civilized age, it has been thought fit to vest in magistrates; but it was ill endured by a people who placed their notions of liberty in personal exemption from restraint, rather than any political theory. An act having been passed (2 R. II. stat. 2. c. 6.), in consequence of unusual riots and outrages, enabling magistrates to commit the ringleaders of tumultuary assemblies without waiting for legal process till the next arrival of justices of gaol delivery, the commons petitioned next year against this "horrible grievous ordinance," by which "every freeman in the kingdom would be in bondage to these justices," contrary to the great charter, and to many statutes, which forbid any man to be taken without due course of law.† So sensitive was their jealousy of arbitrary

* 1 E. III. stat. 2. c. 16.; 4 E. III. c. 2.; 34 E. III. c. 1.; 7 R. II. c. 5. The institution excited a good deal of ill-will, even before these strong acts were passed. Many petitions of the commons in the 28th E. III., and other years complain of it. Rot. Parl. vol. ii.

† Rot. Parl. vol. iii. p. 65. It may be observed that this act, 2 R. II. c. 16. was not founded on a petition, but on the king's answer; so that the commons were no real parties to it, and accordingly call it an ordinance in their present petition. This naturally increased their animosity in treating it as an infringement of the subject's right.

imprisonment, that they preferred enduring riot and robbery to chastising them by any means that might afford a precedent to oppression, or weaken men's reverence for *Magna Charta*.

There are two subjects remaining, to which this retrospect of the state of manners naturally leads us, and which I would not pass unnoticed, though not perhaps absolutely essential to a constitutional history; because they tend in a very material degree to illustrate the progress of society, with which civil liberty and regular government are closely connected. These are, first, the servitude or villenage of the peasantry, and their gradual emancipation from that condition; and secondly, the continual increase of commercial intercourse with foreign countries. But as the latter topic will fall more conveniently into the next part of this work, I shall postpone its consideration for the present.

In a former passage, I have remarked of the Anglo-Saxon ceorls, that neither their situation nor that of their descendants for the earlier reigns after the conquest appears to have been mere servitude. But from the time of Henry II., as we learn from *Glanvil*, the villein so called was absolutely dependent upon his lord's will, compelled to unlimited services, and destitute of property, not only in the land he held for his maintenance, but in his own acquisitions.* If a villein purchased or inherited land, the

* *Glanvil*, l. v. c. 5.

lord might seize it ; if he accumulated stock, its possession was equally precarious. Against his lord he had no right of action ; because his indemnity in damages, if he could have recovered any, might have been immediately taken away. If he fled from his lord's service, or from the land which he held, a writ issued *de nativitate probanda*, and the master recovered his fugitive by law. His children were born to the same state of servitude ; and, contrary to the rule of the civil law, where one parent was free, and the other in villenage, the offspring followed their father's condition.*

This was certainly a severe lot ; yet there are circumstances which materially distinguish it from slavery. The condition of villenage, at least in later

* According to Bracton, the bastard of a nief, or female villein, was born in servitude ; and where the parents lived on a villein tenement, the children of a nief, even though married to a freeman, were villeins. l. iv. c. 21. and see Beames's translation of *Glanvil*, p. 109. But Littleton lays down an opposite doctrine, that a bastard was necessarily free ; because being the child of no father in the contemplation of law, he could not be presumed to inherit servitude from any one ; and makes no distinction as to the parent's residence. Sect. 188. I merely take notice of this change in the law between the reigns of Henry III. and Edward IV. as an instance of the bias which the judges showed in favour of personal freedom. Another, if we can rely upon it is more important. In the reign of Henry II, a freeman marrying a nief and settling on a villein tenement lost the privileges of freedom during the time of his occupation : *legem terræ quasi natus amittit*. *Glanvil*, l. v. c. 6. This was consonant to the customs of some other countries, some of which went farther, and treated such a person forever as a villein. But on the contrary, we find in Britton, a century later, that the nief herself by such a marriage became free during the coverture. c. 31.

times, was perfectly relative; it formed no distinct order in the political economy. No man was a villein in the eye of law, unless his master claimed him; to all others he was a freeman, and might acquire, dispose of, or sue for property without impediment. Hence Sir E. Coke argues, that villeins are included in the 29th article of Magna Charta: "No freeman shall be disseised, nor imprisoned."* For murder, rape, or mutilation of his villein, the lord was indictable at the king's suit; though not for assault or imprisonment, which were within the sphere of his seignorial authority.†

This class was distinguished into villeins regardant, who had been attached from time immemorial to a certain manor, and villeins in gross, where such territorial prescription had never existed, or had been broken. In the condition of these, whatever

* I must confess that I have some doubts how far this was law at the epoch of Magna Charta. Glanvil and Bracton both speak of the *status villenagii*, as opposed to that of liberty, and seem to consider it as a civil condition, not a merely personal relation. The civil law and the French treatise of Beaumanoir hold the same language. And Sir Robert Cotton maintains without hesitation, that villeins are not within the 29th section of Magna Charta, "being excluded by the word liber." Cotton's *Postuma*. p. 223. Britton however, a little after Bracton, says that in an action the villein is answerable to all men, and all men to him. p. 79. And later judges, in *favorem libertatis*, gave this construction to the villein's situation, which must therefore be considered as the clear law of England in the fourteenth and fifteenth centuries.

† Littleton, sect. 189. 190. speaks only of an appeal in the two former cases; but an indictment is a *fortiori*; and he says sect. 194., that an indictment, though not an appeal, lay against the lord for maiming his villein.

has been said by some writers, I can find no manner of difference; the distinction was merely technical, and affected only the mode of pleading.* The term, in gross, is appropriated in our legal language to property held absolutely, and without reference to any other. Thus it is applied to rights of advowson or of common, when possessed simply, and not as incident to any particular lands. And there can be no doubt, that it was used in the same sense for the possession of a villein. But there was a class of persons, sometimes inaccurately confounded with villeins, whom it is more important to separate. Vil-

* Gurdon, on Courts Baron, p. 592., supposes the the villein in gross to have been the Lazzus or Servus of early times, a domestic serf, and of an inferior species to the cultivator, or villein regardant. Unluckily Bracton and Littleton do not confirm this notion, which would be convenient enough for in Domes-day book there is a marked distinction between the Servi and Villani. Blackstone expresses himself inaccurately when he says the villein in gross was annexed to the person of the lord, transferrable by deed from one owner to another. By this means indeed a villein regardant would become a villein in gross, but all villeins were alike liable to be sold by their owners. Littleton sect. 181. Blomefield's Norfolk, vol. iii. p. 860. Mr. Hargrave supposes that villeins in gross were never numerous; (Case of Somerset, Howell's State trials vol. xx. p. 42.) drawing this inference from the few cases relative to them, that occur in the Year books. And certainly the form of the writ de nativitate probanda, and the peculiar evidence it required, which may be found in Fitzherbert's Natura Brevium, or in Mr. H's argument are only applicable to the other species. It is a doubtful point, whether a freeman could, in contemplation of law become a villein in gross; though his confession in a court of record, upon a suit already commenced, (for this was requisite,) would estop him from claiming his liberty; and hence Bracton speaks of this proceeding as a mode by which a freeman might fall into servitude.

tenage had a double sense, as it related to persons, or to lands. As all men were free or villeins, so all lands were held by a free or villein tenure. This great division of tenures was probably derived from the bocland and folkland of Saxon times. As a villein might be enfeoffed of freeholds, though they lay at the mercy of his lord, so a freeman might hold tenements in villenage. In this case, his personal liberty subsisted along with the burthens of territorial servitude. He was bound to arbitrary service at the will of the lord, and he might by the same will be at any moment dispossessed; for such was the condition of his tenure. But his chattels were secure from seizure, his person from injury, and he might leave the land whenever he pleased.*

From so disadvantageous a condition as this of villenage, it may cause some surprize that the peasantry of England should have ever emerged. The law incapacitating a villein from acquiring property placed, one would imagine, an insurmountable barrier in the way of his enfranchisement. It followed from thence, and is positively said by Glanvil, that a villein could not buy his freedom, because the price he tendered would already belong to his lord.† And even in the case of free tenants in villenage, it is not easy to comprehend how their uncertain and unbounded services could ever pass into slight pecuniary commutations; much less how they could come to main-

* Bracton, l. ii. c. 8.; l. iv. c. 28. Littleton, sect. 172:

† Glanvil, l. v. c. 5.

tain themselves in their lands, and mock the lord with a nominal tenure according to the custom of the manor.

This, like many others relating to the progress of society, is a very obscure enquiry. We can trace the pedigree of princes, fill up the catalogue of towns besieged and provinces desolated, describe even the whole pageantry of coronations and festivals, but we cannot recover the genuine history of mankind. It has passed away with slight and partial notice by contemporary writers ; and our most patient industry can hardly at present put together enough of the fragments to suggest a tolerably clear representation of ancient manners and social life. I cannot profess to undertake what would require a command of books as well as leisure beyond my reach ; but the following observations may tend a little to illustrate our immediate subject, the gradual extinction of villenage.

If we take what may be considered as the simplest case, that of a manor divided into demesne lands of the lord's occupation, and those in the tenure of his villeins, performing all the services of agriculture for him, it is obvious that his interest was to maintain just so many of these as his estate required for its cultivation. Land, the cheapest of articles, was the price of their labour ; and though the law did not compel him to pay this or any other price, yet necessity, repairing in some degree the law's injustice, made those pretty secure of food and dwellings, who

were to give the strength of their arms for his advantage. But, in course of time, as alienations of small parcels of manors to free tenants came to prevail, the proprietors of land were placed in a new situation relatively to its cultivators. The tenements in villenage, whether by law or usage, were never separated from the lordship, while its domain was reduced to a smaller extent, through sub infeudations, sales, or demises for valuable rent. The purchasers under these alienations had occasion for labourers; and these would be free servants in respect of such employers, though in villenage to their original lord. As he demanded less of their labour, through the diminution of his domain, they had more to spare for other masters; and retaining the character of villeins and the lands they held by that tenure, became hired labourers in husbandry for the greater part of the year. It is true, that all their earnings were at the lord's disposal, and that he might have made a profit of their labour, when he ceased to require it for his own land. But this, which the rapacity of more commercial times would instantly have suggested, might escape a feudal superior, who, wealthy beyond his wants, and guarded by the haughtiness of ancestry against the love of such pitiful gains, was better pleased to win the affection of his dependants, than to improve his fortune at their expense.

The services of villenage were gradually rendered less onerous and uncertain. Those of husbandry indeed are naturally uniform, and might be anticipated

with no small exactness. Lords of generous tempers granted indulgences, which were either intended to be or readily became perpetual. And thus, in the time of Edward I., we find the tenants in some manors bound only to stated services, as recorded in the lord's book.* Some of these might perhaps be villeins by blood; but free tenants in villenage were still more likely to maintain this precision in their services; and from claiming a customary right to be entered in the court-roll upon the same terms as their predecessors, prevailed at length to get copies of it for their security.† Proofs of this remarkable transformation from tenants in villenage to copyholders are found in the reign of Henry III. I do not know, however, that they were protected, at so early an epoch, in the possession of their estates. But it is said in the year-book of the 42d of Edward III. to be "admitted for clear law, that if the customary tenant or copyholder does not perform his services, the lord may seize his land as forfeited."‡

* Dugdale's Warwickshire apud Eden's State of the Poor, vol. i. p. 13. A passage in another local history rather seems to indicate, that some kind of delinquency was usually alleged, and some ceremony employed, before the lord entered on the villein's land. In Gissing manor, 39 E. III. the jury present, that W. G. a villein by blood was a rebel and ungrateful towards his lord, for which all his tenements were seized. His offence was the having said that the lord kept four stolen sheep in his field. Blomefield's Norfolk, vol. i. p. 114.

† Gurdon on Courts Baron, p. 574.

‡ Brook's Abridgem. Tenant par copie, l. By the extent-roll of the manor of Brisingham in Norfolk in 1254, it appears that there were then ninety-four copyholders, and six cottager

It seems implied herein, that so long as the copyholder did continue to perform the regular stipulations of his tenure, the lord was not at liberty to divest him of his estate; and this is said to be confirmed by a passage in Britton, which has escaped my search; though Littleton intimates, that copyholders could have no remedy against their lord.* However in the reign of Edward IV., this was put out of doubt by the judges, who permitted the copyholder to bring his action of trespass against the lord for dispossession.

While some of the more fortunate villeins crept up into property as well as freedom under the name of copyholders, the greater part enfranchised themselves in a different manner. The law, which treated them so harshly, did not take away the means of escape, nor was this a matter of difficulty in such a country as England. To this indeed the unequal progression

in villenage; the former performing many, but determinate services of labour for the lord. Blomefield's Norfolk, vol. i. p. 34.

* Littl. sect. 77. A copyholder without legal remedy may seem little better than a tenant in mere villenage, except in name. But though from the relation between the lord and copyholder the latter might not be permitted to sue his superior, yet it does not follow that he might not bring his action against any person acting under the lord's direction, in which the defendant could not set up an illegal authority; just as, although no writ runs against the king, his ministers or officers are not justified in acting under his command contrary to law. I wish this note to be considered as correcting one in my first volume, p. 155. where I have said that a similar law in France rendered the distinction between a serf and a *homme de poote* little more than theoretical.

of agriculture and population in different counties would have naturally contributed. Men emigrated, as they always must, in search of cheapness or employment, according to the tide of human necessities. But the villein, who had one additional motive to urge his steps away from his native place, might well hope to be forgotten or undiscovered, when he breathed a freer air, and engaged his voluntary labour to a distant master. The lord had indeed an action against him; but there was so little communication between remote parts of the country, that it might be deemed his fault or singular ill-fortune, if he were compelled to defend himself. Even in that case, the law inclined to favour him; and so many obstacles were thrown in the way of these suits to reclaim fugitive villeins, that they could not have operated materially to retard their general enfranchisement.* In one case indeed, that of unmolested residence for a year and a day within a walled city or borough, the villein became free, and the lord was absolutely barred of his remedy. This provision is contained even in the laws of William the Conqueror, as contained in Hoveden, and if it be not an interpolation, may be supposed to have had a view to strengthen the population of those places, which were designed for garrisons. This law, whether of William or not, is unequivocally mentioned by Glanvil.†

* See the rules of pleading and evidence in questions of villenage fully stated in Mr. Hargrave's argument in the case of Somerset. Howell's State Trials, vol. xx. p. 38.

† l. v. c. 5.

Nor was it a mere letter. According to a record in the 6th of Edward II., Sir John Clavering sued eighteen villeins of his manor of Cossey, for withdrawing themselves therefrom with their chattels; whereupon a writ was directed to them; but six of the number claimed to be freemen, alleging the Conqueror's charter, and offering to prove that they had lived in Norwich, paying scot and lot, above thirty years; which claim was admitted.*

By such means, a large proportion of the peasantry, before the middle of the fourteenth century, had become hired labourers instead of villeins. We first hear of them, on a great scale, in an ordinance made by Edward III., in the twenty-third year of his reign. This was just after the dreadful pestilence of 1348; and it recites that the number of workmen and servants having been greatly reduced by that calamity, the remainder demanded excessive wages from their employers. Such an enhancement in the price of labour, though founded exactly on the same principles as regulate the value of any other commodity, is too frequently treated as a sort of crime by lawgivers, who grudge the poor that transient melioration of their lot, which the progress of population, or other analogous circumstances, will, without any interference, very rapidly take away. This ordinance therefore enacts, that every man in England, of

* Blomefield's Norfolk, vol. i. p. 657. I know not how far this privilege was supposed to be impaired by the statute 34 E. III. c. 11.; which however might, I should conceive, very well stand along with it.

whatever condition, bond or free, of able body, and within sixty years of age, not living of his own, nor by any trade, shall be obliged, when required, to serve any master who is willing to hire him, at such wages as were usually paid three years since, or for some time preceding; provided, that the lords of villeins or tenants in villenage shall have the preference of their labour, so that they retain no more than shall be necessary for them. More than these old wages is strictly forbidden to be offered, as well as demanded. No one is permitted, under colour of charity, to give alms to a beggar. And, to make some compensation to the inferior classes for these severities, a clause is inserted, as wise, just, and practicable as the rest, for the sale of provisions at reasonable prices.*

This ordinance met with so little regard, that a statute was made in parliament two years after, fixing the wages of all artificers and husbandmen, with regard to the nature and season of their labour. From this time it became a frequent complaint of the commons, that the statute of labourers was not kept. The king had in this case, probably, no other reason for leaving their grievance unredressed, than his inability to change the order of Providence. A silent alteration had been wrought in the condition and character of the lower classes during the reign of Edward III. This was the effect of increased knowledge and refinement, which had been making

* Stat. 23. E. III.

a considerable progress for full half a century, though they did not readily permeate the cold region of poverty and ignorance. It was natural that the country people, or uplandish folk, as they were called, should repine at the exclusion from that enjoyment of competence, and security for the fruits of their labour, which the inhabitants of towns so fully possessed. The fourteenth century was, in many parts of Europe, the age when a sense of political servitude was most keenly felt. Thus the insurrection of the Jacquerie in France about the year 1358 had the same character, and resulted in a great measure from the same causes as that of the English peasants in 1382. And we may account in a similar manner for the democratical tone of the French and Flemish cities, and for the prevalence of a spirit of liberty in Germany and Swisserland.

I do not know whether we should attribute part of this revolutionary concussion to the preaching of Wicliffe's disciples, or look upon both one and the other as phænomena belonging to that particular epoch in the progress of society. New principles, both as to civil rule and religion, broke suddenly upon the uneducated mind, to render it bold, presumptuous and turbulent. But at least I make little doubt that the dislike of ecclesiastical power, which spread so rapidly among the people at this season, connected itself with a spirit of insubordination and an intolerance of political subjection. Each were nourished by the same teachers, the lower secular

clergy; and however distinct we may think a religious reformation from a civil anarchy, there was a good deal common in the language, by which the populace were inflamed to either one or the other. Even the scriptural moralities which were then exhibited, and which became the foundation of our theatre, lent fuel to the spirit of sedition. The common original, and common destination of mankind, with every other lesson of equality which religion supplies to humble or to console, were displayed with coarse and glaring features in these representations. The familiarity of such ideas has deadened their effect upon our minds; but when a rude peasant, surprizingly destitute of religious instruction during that corrupt age of the church, was led at once to these impressive truths, we cannot be astonished at the intoxication of mind they produced.*

Though I believe that, compared at least with the aristocracy of other countries, the English lords were guilty of very little cruelty or injustice, yet there

* I have been more influenced by natural probabilities than testimony, in ascribing this effect to Wicliffe's innovations, because the historians are prejudiced witnesses against him. Several of them depose to the connexion between his opinions and the rebellion of 1382; especially Walsingham, p. 288. This implies no reflection upon Wickliffe, any more than the crimes of the anabaptists in Munster do upon Luther. Every one knows the distich of John Ball, which comprehends the essence of religious democracy: 'When Adam delved and Eve span, Where was then the gentleman?' The sermon of the priest, as related by Walsingham, p. 275. derives its argument for equality from the common origin of the species. He is said to have been a disciple of Wicliffe. Turner's Hist. of England, vol. ii. p. 420.

were circumstances belonging to that period, which might tempt them to deal more hardly than before with their peasantry. The fourteenth century was an age of greater magnificence than those which had preceded, in dress, in ceremonies, in buildings; foreign luxuries were known enough to excite an eager demand among the higher ranks, and yet so scarce as to yield inordinate prices; while the land-owners were on the other hand impoverished by heavy and unceasing taxation. Hence it is probable that avarice, as commonly happens, had given birth to oppression; and if the gentry, as I am inclined to believe, had become more attentive to agricultural improvements, it is reasonable to conjecture, that those whose tenure obliged them to unlimited services of husbandry were more harrassed, than under their wealthy and indolent masters in preceding times.

The storm that almost swept away all bulwarks of civilized and regular society seems to have been long in collecting itself. Perhaps a more sagacious legislature might have contrived to disperse it; but the commons only presented complaints of the refractoriness with which villeins and tenants in villenage refused their due services;* and the exigencies of government led to the fatal poll-tax of a groat, which was the proximate cause of the insurrection. By the demands of these rioters, we perceive that territorial servitude was far from extinct; but it should not be hastily concluded that they were all

* Stat. 1 R. II. c. 6.; Rot. Parl. vol. iii. p. 21.

personal villeins, for a large proportion were Kentish-men, to whom that condition could not have applied; it being a good bar to a writ de nativitate probanda, that the party's father was born in the county of Kent.*

After this tremendous rebellion, it might be expected that the legislature would use little indulgence towards the lower commons. Such unhappy tumults are doubly mischievous, not more from the immediate calamities that attend them, than from the fear and hatred of the people which they generate in the elevated classes. The general charter of manumission extorted from the king by the rioters at Blackheath was annulled by proclamation to the sheriffs; † and this revocation approved by the lords and commons in parliament; who added, as was very true, that such enfranchisement could not be made without their consent; “which they would never give to save themselves from perishing altogether in one day.” ‡ Riots were turned into treason by a law of the same parliament. § By a very harsh statute in the 12th of Richard II., no servant or labourer

* 30 E. I., in Fitzherbert. Villenage, apud Lambard's Perambulation of Kent, p. 632. Somner on Gavelkind, p. 72.

† Rymer, t. vii. p. 316. &c. The king holds this bitter language to the villeins of Essex, after the death of Tyler and execution of the other leaders had disconcerted them: *Rustici quidem fuistis et estis, in bondage permanebitis. non ut hactenus, sed incomparabiliter villiori, &c.* Walsingham, p. 269.

‡ Rot. Parl. vol. iii. p. 100.

§ 5 R. II. c. 7. The words are, riot et rumour *n'autres semblables*; rather a general way of creating a new treason: but panic puts an end to jealousy.

could depart, even at the expiration of his service, from the hundred in which he lived, without permission under the king's seal; nor might any who had been bred to husbandry till twelve years old exercise any other calling.* A few years afterwards, the commons petitioned that villeins might not put their children to school, in order to advance them by the church; "and this for the honour of all the free-men of the kingdom." In the same parliament they complained, that villeins fly to cities and boroughs, whence their masters cannot recover them; and, if they attempt it, are hindered by the people; and prayed that the lords might seize their villeins in such places, without regard to the franchises thereof. But on both these petitions the king put a negative.†

From henceforward we find little notice taken of villenage in parliamentary records, and there seems to have been a rapid tendency to its entire abolition. But the fifteenth century is barren of materials; and we can only infer that as the same causes, which in Edward III.'s time had converted a large portion of the peasantry into free labourers, still continued to operate, they must silently have extinguished the

* 12 R. II. c. 3.

† Rot. Parl. 15 R. II. vol. lii. p. 294. 296. The statute 7 H. IV. c. 17. enacts that no one shall put his son or daughter apprentice to any trade in a borough, unless he have land or rent to the value of twenty shillings a-year, but that any one may put his children to school. The reason assigned is the scarcity of labourers in husbandry, in consequence of people living in *Upland* apprenticing their children.

whole system of personal and territorial servitude. The latter indeed was annihilated by the establishment of the law of copyhold.

I cannot presume to conjecture in what degree voluntary manumission is to be reckoned among the means that contributed to the abolition of villenage. Charters of enfranchisement were very common upon the continent. They may perhaps have been less so in England. Indeed the statute *de donis* must have operated very injuriously to prevent the enfranchisement of villeins regardant, who were entailed along with the land.* Instances, however, occur from time to time; and we cannot expect to discover many. One appears as early as the 15th year of Henry III., who grants to all persons born or to be born within his village of Contishall, that they shall be free from all villenage in body and blood, paying an aid of twenty shillings to knight the king's eldest son, and six shillings a year as a quit rent.† So, in the 12th of Edward III., certain of the king's villeins are enfranchised on payment of a fine.‡ In strictness of law, a fine from the villein for the sake of enfranchisement was nugatory, since all he could pos-

* If we may believe what is said in Blomefield's *Hist. of Norfolk*, vol. iii. p. 572. the lord's wife was a necessary party to the manumission of a villein, in order to bar her dower. If this were law, which it seems difficult on principle to deny, the enfranchisement of a villein must have been a troublesome business; for one does not see how she could have barred her right except by fine

† Blomefield's *Norfolk*, vol. iii. p. 571.

‡ Rymer, t. v. p. 44.

ness was already at his lord's disposal. But custom and equity might easily introduce different maxims; and it was plainly for the lord's interest to encourage his tenants in the acquisition of money to redeem themselves, rather than to quench the exertions of their industry by availing himself of an extreme right. Deeds of enfranchisement occur in the reigns of Mary and Elizabeth;* and perhaps a commission of the latter princess in 1574, directing the enfranchisement of her bondmen and bondwomen on certain manors upon payment of a fine, is the last unequivocal testimony to the existence of villenage;† though it is highly probable that it existed in remote parts of the country some time longer.‡

From this general view of the English constitution, as it stood about the time of Henry VI., we must turn our eyes to the political revolutions which

* Gurdon on Courts Baron, p. 596. Madox, *Formulare Anglicanum*, p. 420. Barrington on Ancient Statutes, p. 278. It is said in a modern book, that villenage was very rare in Scotland, and even that no instance exists in records, of an estate sold with the labourers and their families attached to the soil. Pinkerton's *Hist. of Scotland*, vol. i. p. 147.

† Barrington, *ubi supra*, from Rymer.

‡ There are several later cases reported, wherein villenage was pleaded, and one of them as late as the 15th of James I. (Noy, p. 27.) See Hargrave's argument, *State Trials*, vol. xx. p. 41. But these are so briefly stated, that it is difficult in general to understand them. It is obvious however, that judgment was in no case given in favour of the plea; so that we can infer nothing as to the actual continuance of villenage.

It is remarkable, and may be deemed by some persons a proof of legal pedantry, that Sir E. Coke, while he dilates on the law of villenage, never intimates that it was become antiquated.

clouded the latter years of his reign. The minority of this prince, notwithstanding the vices and dissensions of his court, and the inglorious discomfiture of our arms in France, was not perhaps a calamitous period. The country grew more wealthy; the law was, on the whole, better observed; the power of parliament more complete and effectual than in preceding times. But Henry's weakness of understanding, becoming evident as he reached manhood, rendered his reign a perpetual minority. His marriage with a princess of strong mind, but ambitious and vindictive, rather tended to weaken the government, and to accelerate his downfall; a certain reverence that had been paid to the gentleness of the king's disposition being overcome by her unpopularity. By degrees Henry's natural infirmity degenerated almost into fatuity; and this unhappy condition seems to have overtaken him, nearly about the time when it became an arduous task to withstand the assault in preparation against his government. This may properly introduce a great constitutional subject, to which some peculiar circumstances of our own age have imperiously directed the consideration of parliament. Though the proceedings of 1788 and 1810 are undoubtedly precedents of far more authority than any that can be derived from our ancient history, yet, as the seal of the legislature has not yet been set upon this controversy, it is not perhaps altogether beyond the possibility of future discussion; and at least it cannot be uninteresting to look back on those parallel or analo-

gous cases, by which the deliberations of parliament upon the question of regency were guided.

While the kings of England retained their continental dominions, and were engaged in the wars to which those gave birth, they were of course frequently absent from this country. Upon such occasions, the administration seems at first to have devolved officially on the justiciary, as chief servant of the crown. But Henry III. began the practice of appointing lieutenants, or guardians of the realm (*custodes regni*), as they were more usually termed, by way of temporary substitutes. They were usually nominated by the king without consent of parliament; and their office carried with it the right of exercising all the prerogatives of the crown. It was of course determined by the king's return; and a distinct statute was necessary in the reign of Henry V., to provide that a parliament called by the guardian of the realm during the king's absence should not be dissolved by that event.* The most remarkable circumstance attending these lieutenancies was that they were sometimes conferred on the heir apparent during his infancy. The Black Prince, then duke of Cornwall, was left guardian of the realm in 1339, when he was but ten years old;† and Richard his son,

* 8 H. V. c. 1.

† This prince having been sent to Antwerp, six commissioners were appointed to open parliament. Rot. Parl. 13 E. III. vol. ii. p. 107.

when still younger, in 1372, during Edward III.'s last expedition into France.*

These do not however, bear a very close analogy to regencies in the stricter sense, or substitutions during the natural incapacity of the sovereign. Of such there had been several instances, before it became necessary to supply the deficiency arising from Henry's derangement. 1. At the death of John, William earl of Pembroke assumed the title of *rector regis et regni*, with the consent of the royal barons who had just proclaimed the young king, and probably conducted the government in a great measure by their advice.† But the circumstances were too critical, and the time is too remote, to give this precedent any material weight. 2. Edward I. being in Sicily at his father's death, the nobility met at the Temple church, as we are informed by a contemporary writer, and, after making a new great seal, appointed the archbishop of York, Edward earl of Cornwall, and the earl of Gloucester to be ministers and guardians of the realm; who accordingly conducted the administration in the king's name until his return.‡ It is here observable, that the earl of Cornwall, though nearest prince of the blood, was not supposed to enjoy any superior title to the regency, wherein he was associated with two other nobles. But while the crown itself was hardly ac-

* Rymer, t. vi. p. 748.

† Matt. Paris, p. 243.

‡ Matt. Westmonast. ap. Brady's Hist. of England, vol. ii. p. 1.

knowledged to be unquestionably hereditary, it would be strange if any notion of such a right to the regency had been entertained. 3. At the accession of Edward III., then fourteen years old, the parliament which was immediately summoned nominated four bishops, four earls, and six barons as a standing council, at the head of which the earl of Lancaster seems to have been placed, to advise the king in all business of government. It was an article in the charge of treason, or as it was then styled, of accroaching royal power, against Mortimer, that he intermeddled in the king's household without the assent of this council.* They may be deemed therefore a sort of parliamentary regency, though the duration of their functions does not seem to be defined. 4. The proceedings at the commencement of the next reign are more worthy of attention. Edward III. dying June 21, 1377, the keepers of the great seal next day, in absence of the chancellor beyond sea, gave it into the young king's hands before his council. He immediately delivered it to the duke of Lancaster, and the duke to Sir Nicholas Bonde for safe custody. Four days afterwards, the king in council delivered the seal to the bishop of St. David's, who affixed it the same day to divers letters patent.† Richard was at this time ten years and six months old; an age certainly very unfit for the personal execution of sovereign authority. Yet he was supposed capable of reigning without the aid of a regency.

* Rot. Parl. vol. ii. p. 52. † Rymer, t. vii. p. 171.

This might be in virtue of a sort of magic ascribed by lawyers to the great seal, the possession of which bars all further inquiry, and renders any government legal: The practice of modern times, requiring the constant exercise of the sign manual, has made a public confession of incapacity necessary in many cases, where it might have been concealed or overlooked in earlier periods of the constitution. But, though no one was invested with the office of regent, a council of twelve was named by the prelates and peers at the king's coronation, July 16, 1377, without whose concurrence no public measure was to be carried into effect. I have mentioned in another place the modifications introduced from time to time by parliament, which might itself be deemed a great council of regency during the first years of Richard.

5. The next instance is at the accesssion of Henry VI. This prince was but nine months old at his father's death; and whether from a more evident incapacity for the conduct of government in his case than in that of Richard II., or from the progress of contitutional principles in the forty years elapsed since the latter's accession, far more regularity and deliberation were shewn in supplying the defect in the executive authority. Upon the news arriving that Henry V. was dead, several lords spiritual and temporal assembled, on account of the imminent necessity, in order to preserve peace, and provide for the exercise of offices appertaining to the king. These peers accordingly issued commissions to judges,

sheriffs, escheators, and others for various purposes, and writs for a new parliament. This was opened by commission under the great seal directed to the duke of Gloucester, in the usual form, and with the king's teste.* Some ordinances were made in this parliament by the duke of Gloucester as commissioner, and some in the king's name. The acts of the peers who had taken on themselves the administration, and summoned parliament, were confirmed. On the twenty-seventh day of its session, it is entered upon the roll, that the king, "considering his tender age, and inability to direct in person the concerns of his realm, by assent of lords and commons, appoints the duke of Bedford, or, in his absence beyond sea, the duke of Gloucester, to be protector and defender of the kingdom and English church, and the king's chief counsellor." Letters patent were made out to this effect; the appointment being however expressly during the king's pleasure. Sixteen counsellors were named in parliament to assist the protector in his administration; and their concurrence was made necessary to the removal and appointment of officers, except some inferior patronage specifically reserved to the protector. In all important business that should pass by order of council, the whole, or major part, were to be present; "but if it were such matter that the king hath been accustomed to be counselled of, that then the said lords proceed not therein without the advice of my lords of Bedford or Gloucester."†

* Rot. Parl. vol. iv. p. 169. † p. 174, 176.

A few more counsellors were added by the next parliament, and divers regulations established for their observance.*

This arrangement was in contravention of the late king's testament which had conferred the regency on the duke of Gloucester, in exclusion of his elder brother. But the nature and spirit of these proceedings will be better understood by a remarkable passage in a roll of a later parliament; where the house of lords, in answer to a request of Gloucester, that he might know what authority he possessed as protector, remind him that in the first parliament of the king,† “ye desired to have had ye governaunce of yis land; affermyng yat hit belonged unto you of rygzt, as well by ye mene of your birth, as by ye laste wyll of ye kyng yat was ye broyer, whome God assoile; alleggyng for you such groundes and motyves as it was yought to your discretion made for your intent: whereupon, the lords spiritual and temporal assembled there in parliament, among which were there my lordes your uncles, the bishop of Winchester that now liveth, and the duke of Exeter, and your cousin the earl of March that be gone to God, and of Warwick, and other in great number that now

* p. 201.

† I follow the orthography of the roll, which I hope will not be inconvenient to the reader. Why this orthography, from obsolete and difficult, so frequently becomes almost modern, as will appear in the course of these extracts, I cannot conjecture. The usual irregularity of ancient spelling is hardly sufficient to account for such variations; but, if there be any error, it belongs to the superintendants of that publication, and is not mine.

live, had great and long deliveration and advice, searched precedents of the governail of the land in time and case semblable, when kings of this land have been tender of age, took also information of the laws of the land, of such persons as be notably learned therein, and finally found your said desire not caused nor grounded in precedent, nor in the law of the land; the which the king that dead is, in his life nor might by his last will nor otherwise altre, change, nor abroge, without the assent of the three estates, nor commit or grant to any person governance or rule of this land longer than he lived; but on that other bahalf, the said lords found your said desire not according with the laws of this land, and against the right and fredome of the estates of the same land. Howe were it, that it be not thought, that any such thing wittimly proceeded of your intent; and nevertheless to keep peace and tranquillity, and to the intent to ease and appease you, it was advised and appointed by authority of the king, assenting the three estates of this land, that ye in absence of my lord your brother of Bedford, should be chief of the king's council, and devised unto you a name different from other counsellors, not the name of tutor, lieutenant, governor, nor of regent, nor no name that should import authority of governance of the land, but the name of protector and defensor, which importeth a personal duty of attendance to the actual defense of the land, as well against enemies outward, if case required, as against rebels inward,

if any were, that God forbid; granting you therewith certain power, the which is specified and contained in an act of the said parliament, to endure as long as it liked the king. In the which if the intent of the said estates had been, that ye more power and authority should have had, more should have been expressed therein; to the which appointment, ordinance, and act, ye then agreed you as for your person, making nevertheless protestation, that it was not your intent in any wise to deroge, or do prejudice unto my lord your brother of Bedford by your said agreement, as toward any right that he would pretend or claim, in the governance of this land, and as toward any pre-eminence that you might have or belong unto you as chief of council, it is plainly declared in the said act and articles, subscribed by my said lord of Bedford, by yourself, and the other lords of the council. But as in parliament to which ye be called upon your faith and ligeance as duke of Gloucester, as other lords be, and not otherwise, we know no power nor authority that ye have, other than ye as duke of Gloucester should have, the king being in parliament, at years of mest discretion: We marveling with all our hearts, that considering the open declaration of the authority and power belonging to my lord of Bedford, and to you in his absence, and also to the king's council, subscribed purely and simply by my said lord of Bedford, and by you, that you should in any wise be stirred or moved not to content you therewith, or to pretend you any

other : Namely considering, that the king, blessed be our lord, is sith the time of the said power granted unto you, far gone and grown in person, in wit and understanding, and like with the grace of God to occupy his own royal power within few years : And forasmuch considering the things and causes abovesaid, and other many that long were to write, We lords aforesaid pray, exhort and require you, to content you with the power abovesaid and declared, of the which my lord your brother of Bedford, the king's eldest uncle, contented him; and that ye none larger power desire, will, nor use; giving you this that is aboven written for our answer to your foresaid demand, the which we will dwell and abide with, withouten variance or changing. Over this beseeching and praying you in our most humble and lowly wise, and also requiring you in the king's name, that ye, according to the king's commandment, contained in his writ sent unto you in that behalf, come to this his present parliament, and intend to the good effect and speed of matters to be demesned and treted in the same like as of right ye owe to do."*

It is evident, that this plain, or rather rude address to the duke of Gloucester was dictated by the prevalence of Cardinal Beaufort's party in council and parliament. But the transactions in the former parliament are not unfairly represented; and comparing them with the passage extracted above, we

* Rot Parl. 6 H. VI. vol. iv. p. 326.

may perhaps be entitled to infer, 1. That the king does not possess any constitutional prerogative of appointing a regent during the minority of his successor; and 2. That neither the heir presumptive, nor any other person, is entitled to exercise the royal prerogative during the king's infancy, (or, by parity of reasoning, his infirmity,) nor to any title that conveys them; the sole right of determining the persons by whom, and fixing the limitations under which, the executive government shall be conducted in the king's name and behalf, devolving upon the great council of parliament.

The expression used in the lords' address to the duke of Gloucester relative to the young king, that he was far gone and grown in person, wit and understanding, was not thrown out in mere flattery. In two years the party hostile to Gloucester's influence had gained ground enough to abrogate his office of protector, leaving only the honorary title of chief counsellor.* For this the king's coronation, at eight years of age was thought a fair pretence; and undoubtedly the loss of that exceedingly limited authority which had been delegated to the protector could not have impaired the strength of government. This was conducted as before by a selfish and disunited council; but the king's name was sufficient to legalize their measures, nor does any objection appear to have been made in parliament to such a mockery of the name of monarchy.

* 8 H. VI. vol. iv. p. 336.

In the year 1454, the 32d of Henry's reign, his unhappy malady, transmitted perhaps from his maternal grandfather, assumed so decided a character of derangement or imbecility, that parliament could no longer conceal from itself the necessity of a more efficient ruler. This assembly, which had been continued by successive prorogations for nearly a year, met at Westminster on the 14th of February, when the session was opened by the duke of York, as king's commissioner. Kemp, archbishop of Canterbury and chancellor of England, dying soon afterwards, it was judged proper to acquaint the king at Windsor by a deputation of twelve lords with this and other subjects concerning his government. In fact, perhaps, this was a pretext chosen in order to ascertain his real condition. These peers reported to the lords' house, two days afterwards, that they had opened to his majesty the several articles of their message, but "could get no answer ne sign for no prayer ne desire," though they repeated their endeavours at three different interviews. This report, with the instruction on which it was founded, was, at their prayer, entered of record in parliament. Upon so authentic a testimony of their sovereign's infirmity, the peers adjourning two days for solemnity or deliberation, "elected and nominated Richard duke of York to be protector and defender of the realm of England, during the king's pleasure." The duke, protesting his insufficiency, requested, "that in this present parliament, and by authority thereof, it be

enacted, that of yourself and of your ful and mere disposition, ye desire, name and call me to the said name and charge, and that of any presumption of myself, I take them not upon me, but only of the due and humble obeisance that I owe to do unto the king, our most dread and sovereign lord, and to you the peerage of this land, in whom by the occasion of the infirmity of our said sovereign lord resteth the exercise of his authority, whose noble commandments I am as ready to perform and obey, as any his liegeman alive, and that at such time as it shall please our blessed Creator to restore his most noble person to healthful disposition, it shall like you so to declare and notify to his good grace." To this protestation the lords answered, that for his and their discharge, an act of parliament should be made, conformably to that enacted in the king's infancy, since they were compelled by an equal necessity again to chuse and name a protector and defender. And to the duke of York's request to be informed how far the power and authority of his charge should extend, they replied, that he should be chief of the king's council, and "devised therefore to the said duke a name different from other counsellors, not the name of tutor, lieutenant, governor, nor of regent, nor no name that shall import authority of governor of the land; but the said name of protector and defensor;" and so forth, according to the language of their former address to the duke of Gloucester. An act was passed accordingly, constituting the duke of York

protector of the church and kingdom, and chief counsellor of the king during the latter's pleasure ; or until the prince of Wales should attain years of discretion, on whom the said dignity was immediately to devolve. The patronage of certain spiritual benefices was reserved to the protector, according to the precedent of the king's minority, which parliament was resolved to follow in every particular.*

It may be conjectured, by the provision made in favour of the prince of Wales, then only two years old, that the king's condition was supposed to be beyond hope of restoration. But in about nine months, he recovered sufficient speech and recollection to supersede the duke of York's protectorate.† The succeeding transactions are matter of familiar, though not, perhaps, very perspicuous history. The king was a prisoner in his enemies hands after the affair at St. Albans,‡ when parliament met in July, 1455. In this session little was done, except renewing the strongest oaths of allegiance to Henry and his family.

* Rot. Parl. vol. v. p. 241.

† Paston's Letters, vol. i. p. 81. The proofs of sound mind given in this letter are not very decisive, but the wits of sovereigns are never weighed in golden scales.

‡ This may seem an improper appellation for what is usually termed a battle, wherein 5000 men are said to have fallen. But I rely here upon my faithful guide, the Paston Letters, p. 100. one of which, written immediately after the engagement, says that only six score were killed. Surely this testimony outweighs a thousand ordinary chroniclers. And the nature of the action, which was a sudden attack on the town of St. Albans, without any pitched combat, renders the larger number improbable. Whethamstede, himself abbot of St. Albans at the time, makes the duke of York's army but 3000 fighting men, p. 352.

But the two houses meeting again after a prorogation to November 12, during which time the duke of York had strengthened his party, and was appointed by commission the king's lieutenant to open parliament, a proposition was made by the commons, that "whereas the king had deputed the duke of York as his commissioner to proceed in this parliament, it was thought by the commons, that if the king hereafter could not attend to the protection of the country, an able person should be appointed protector, to whom they might have recourse for redress of injuries; especially as great disturbances had lately arisen in the west between the earl of Devonshire and lord Bonvile.* The archbishop of Canterbury answered for the lords, that they would take into consideration what the commons had suggested. Two days afterwards, the latter appeared again with a request conveyed nearly in the same terms. Upon their leaving the chamber, the archbishop, who was also chancellor, moved the peers to answer what should be done in respect of the request of the commons; adding that "it is understood, that they will not further proceed in matters of parliament, to the time that they have answer of their desire and request." This naturally ended in the re-appointment of the duke of York to his charge of protector. The commons indeed were determined to bear no delay. As if ignorant of what had been resolved in consequence of their second request, they urged it a

* See some account of these in Paston Letters, vol. i. p. 114.

third time on the next day of meeting; and received for answer that “the king our said sovereign lord, by the advice and assent of his lords spiritual and temporal, being in this present parliament, had named and desired the duke of York to be protector and defensor of this land.” It is worthy of notice, that in these words, and indeed in effect, as appears by the whole transaction, the house of peers assumed an exclusive right of choosing the protector, though in the act passed to ratify their election, the commons’ assent, as a matter of course, is introduced. The last year’s precedent was followed in the present instance, excepting a remarkable deviation; instead of the words “during the king’s pleasure,” the duke was to hold his office “until he should be discharged of it by the lords in parliament.”*

This extraordinary clause, and the slight allegations on which it was thought fit to substitute a viceroy for the reigning monarch, are sufficient to prove, even if the common historians were silent, that whatever passed as to this second protectorate of the duke of York was altogether of a revolutionary complexion. In the actual circumstances of civil blood already spilled and the king in captivity, we may justly wonder that so much regard was shown to the regular forms and precedents of the constitution. But the duke’s natural moderation will account for part of this, and the temper of the lords for much more. That assembly appears for the most

* Rot. Parl. vol. v. p. 284—290.

part to have been faithfully attached to the house of Lancaster. The partizans of Richard were found in the commons, and among the populace. Several months elapsed after the victory of St. Albans, before an attempt was thus made to set aside a sovereign, not labouring, so far as we know, under any more notorious infirmity than before. It then originated in the commons, and seems to have received but an unwilling consent from the upper house. Even in constituting the duke of York protector over the head of Henry, whom all men despaired of ever seeing in a state to face the dangers of such a season, the lords did not forget the rights of his son. By this latter instrument, as well as by that of the preceding year, the duke's office was to cease upon the prince of Wales arriving at the age of discretion.

But what had long been propagated in secret, soon became familiar to the public ear; that the duke of York laid claim to the throne. He was unquestionably heir general of the royal line, through his mother, Anne, daughter of Roger Mortimer earl of March, son of Philippa, daughter of Lionel duke of Clarence, third son of Edward III. Roger Mortimer's eldest son, Edmund, had been declared heir presumptive by Richard II.; but his infancy during the revolution that placed Henry IV. on the throne had caused his pretensions to be passed over in silence. The new king however was induced by a jealousy natural to his situation to detain the earl of March in custody. Henry V. restored his liberty;

and, though he had certainly connived for a while at the conspiracy planned by his brother-in-law the earl of Cambridge and lord Scrop of Masham to place the crown on his head, that magnanimous prince gave him a free pardon, and never testified any displeasure. The present duke of York was honoured by Henry VI. with the highest trusts in France and Ireland; such as Beaufort and Gloucester could never have dreamed of conferring on him, if his title to the crown had not been reckoned obsolete. It has been very pertinently remarked, that the crime perpetrated by Margaret and her counselors in the death of the duke of Gloucester was the destruction of the house of Lancaster.* From this time, the duke of York, next heir in presumption while the king was childless, might innocently contemplate the prospect of royalty; and when such ideas had long been passing through his mind, we may judge how reluctantly the birth of Prince Edward, nine years after Henry's marriage, would be admitted to disturb them. The queen's administration unpopular, careless of national interests, and partial to his inveterate enemy, the duke of Somerset; † the king incapable of exciting fear or respect; his own consciousness of powerful alliances and universal favour; all these combined could hardly fail

* Hall, p. 210.

† The ill-will of York and the queen began as early as 1449, as we learn from an unequivocal testimony, a letter of that date in the Paston collection, vol i. p. 26.

to nourish those opinions of hereditary right, which he must have imbibed from his infancy.

The duke of York preserved through the critical season of rebellion such moderation and humanity, that we may pardon him that bias in favour of his own pretensions, to which he became himself a victim. Margaret perhaps, by her sanguinary violence in the Coventry parliament of 1460, where the duke and all his adherents were attainted, left him not the choice of remaining a subject with impunity. But with us, who are to weigh these ancient factions in the balance of wisdom and justice, there should be no hesitation in deciding, that the house of Lancaster were lawful sovereigns of England. I am indeed astonished, that not only such historians as Carte, who wrote undisguisedly upon a Jacobite system, but even men of juster principles have been inadvertent enough to mention the right of the house of York. If the original consent of the nation, if three descents of the crown, if repeated acts of parliament, if oaths of allegiance from the whole kingdom, and more particularly from those who now advanced a contrary pretension, if undisturbed, unquestioned possession during sixty years, could not secure the reigning family against a mere defect in their genealogy, when were the people to expect tranquillity? Sceptres were committed, and governments were instituted, for public protection and public happiness, not certainly for the benefit of rulers, or for the security of particular dynasties. No prejudice has less

in its favour, and none has been more fatal to the peace of mankind, than that which regards a nation of subjects as a family's private inheritance. For, as this opinion induces reigning princes and their courtiers to look on the people as made only to obey them, so when the tide of events has swept them from their thrones, it begets a fond hope of restoration, a sense of injury and of imprescriptible rights, which give the show of justice to fresh disturbances of public order, and rebellions against established authority. Even in cases of unjust conquest, which are far stronger than any domestic revolution, time heals the injury of wounded independence, the forced submission to a victorious enemy is changed into spontaneous allegiance to a sovereign, and the laws of God and nature enjoin the obedience that is challenged by reciprocal benefits. But far more does every national government, however violent in its origin, become legitimate, when universally obeyed and justly exercised, the possession drawing after it the right; not certainly that success can alter the moral character of actions, or privilege usurpation before the tribunal of human opinion, or in the pages of history, but that the recognition of a government by the people is the binding pledge of their allegiance so long as its corresponding duties are fulfilled.*

* Upon this great question, the fourth discourse in Sir Michael Foster's Reports ought particularly to be read. Strange doctrines have been revived lately; and though not exactly referred to the constitution of this country, yet, as general principles, easily applicable to it; which, a century since, would have tended to shake the present family in the throne.

And thus the law of England, even under the statute of treasons, has been held to annex the subject's fidelity to the reigning monarch, by whatever title he may have ascended the throne, and whoever else may be its claimant.* But the statute of 11th Henry VII. c. 1. has furnished an unequivocal commentary upon this principle; when, alluding to the condemnations and forfeitures by which those alternate successes of the white and red roses had almost exhausted the noble blood of England, it enacts that "no man for doing true and faithful service to the king for the time being be convict or attaind of high treason, nor of other offences, by act of parliament or otherwise."

Though all classes of men and all parts of England were divided into factions by this unhappy contest, yet the strength of the Yorkists lay in London and the neighbouring counties, and generally among the middling and lower people. And this is what might naturally be expected. For notions of hereditary right take easy hold of the populace, who feel an honest sympathy for those whom they consider as injured; while men of noble birth and high station have a keener sense of personal duty to their sovereign, and of the baseness of deserting their allegiance. Notwithstanding the wide spreading influence of the Nevils, most of the nobility were well affected to the reigning dynasty. We have seen how reluctantly they acquiesced in the second protecto-

* Hale's Pleas of the Crown, vol. i. p. 61. 101. (edit. 1736.)

rate of the duke of York, after the battle of St. Albans. Thirty-two temporal peers took an oath of fealty to Henry and his issue in the Coventry parliament of 1460, which attained the duke of York and the earls of Warwick and Salisbury.* And, in the memorable circumstances of the duke's claim personally made in parliament, it seems manifest, that the lords complied not only with hesitation, but unwillingness; and in fact, testified their respect and duty for Henry by confirming the crown to him during his life.† The rose of Lancaster blushed upon the banners of the Staffords, the Percies, the Veres, the Hollands, and the Courtneys. All these illustrious families lay crushed for a time under the ruins of their party. But the course of fortune, which has too great a mastery over crowns and sceptres to be controuled by men's affections, invested Edward IV. with a possession, which the general consent of the nation both sanctioned and secured. This was effected in no slight degree by the furious spirit of Margaret, who began a system of extermination by acts of attainder, and execution of prisoners, that

* Rot. Parl. vol. v. p. 351.

† Rot. Parl. p. 375. This entry in the roll is highly interesting and important. It ought to be read in preference to any of our historians. Hume, who drew from inferior sources, is not altogether accurate. Yet one remarkable circumstance, told by Hall and other chroniclers, that the duke of York stood by the throne, as if to claim it, though omitted entirely in the roll, is confirmed by Whethamstede, abbot of St. Albans, who was probably then present. (p. 484. edit. Hearne.) This shews that we should only doubt and not reject, unless upon real grounds of suspicion, the assertions of secondary writers.

created abhorrence, though it did not prevent imitation. And the barbarities of her northern army, whom she led towards London after the battle of Wakefield, lost the Lancastrian cause its former friends,* and might justly convince reflecting men, that it were better to risk the chances of a new dynasty, than trust the kingdom to an exasperated faction.

A period of obscurity and confusion ensues, during which we have as little insight into constitutional as general history. There are no contemporary chroniclers of any value, and the rolls of parliament, by whose light we have hitherto steered, become mere registers of private bills, or of petitions relating to commerce. The reign of Edward IV. is the first during which no statute was passed for the redress of grievances, or maintenance of the subject's liberty. Nor is there, if I am correct, a single petition of this nature upon the roll. Whether it were that the commons had lost too much of their ancient courage to present any remonstrances, or that a wilful omission has vitiated the record, is hard to determine; but we certainly must not imagine that a government cemented with blood poured on the scaffold as well as in the field, under a passionate and unprincipled so-

* The abbey of St. Albans was stripped by the queen and her army after the second battle fought at that place, Feb. 17, 1461; which changed Whethamstede the abbot and historiographer from a violent Lancastrian into a Yorkist. His change of party is quite sudden, and amusing enough. See too the Paston Letters, vol. i. p. 206. Yet the Paston family were originally Lancastrian, and returned to that side in 1470.

vereign, would afford no scope for the just animadversion of parliament.* The reign of Edward IV. was a reign of terror. One half of the noble families had been thinned by proscription; and though generally restored in blood by the reversal of their attainders, a measure certainly deserving of much approbation, were still under the eyes of vigilant and inveterate enemies. The opposite faction would be cautious how they resisted a king of their own creation, while the hopes of their adversaries were only dormant. And indeed, without relying on this supposition, it is commonly seen, that when temporary circumstances having given a king the means of acting in disregard of his subjects' privileges, it is a very difficult undertaking for them to recover a liberty, which has no security so effectual as habitual possession.

Besides the severe proceedings against the Lancastrian party, which might be extenuated by the common pretences, retaliation of similar proscriptions, security for the actual government, or just punishment of rebellion against a legitimate heir, there are several reputed instances of violence and barbarity in the reign of Edward IV., which have not such plausible excuses. Every one knows the com-

* There are several instances of violence and oppression apparent on the rolls during this reign, but not proceeding from the crown. One of a remarkable nature, vol. v. p. 173 was brought forward to throw an odium on the duke of Clarence, who had been concerned in it. Several passages indicate the character of the duke of Gloucester.

mon stories of the citizen who was attainted of treason for an idle speech that he would make his son heir to the crown, the house where he dwelt; and of Thomas Burdett, who wished the horns of his stag in the belly of him who had advised the king to shoot it. Of the former I can assert nothing, though I do not believe it to be accurately reported. But certainly the accusation against Burdett, however iniquitous, was not confined to these frivolous words; which indeed do not appear in his indictment,* or in a passage relative to his conviction in the roll of parliament. Burdett was a servant and friend of the duke of Clarence, and sacrificed as a preliminary victim. It was an article of charge against Clarence that he had attempted to persuade the people that "Thomas Burdett his servant, which was lawfully and duly attainted of treason, was wrongfully put to death."† There could indeed be no more oppressive usage inflicted upon meaner persons, than this attainder of the duke of Clarence, an act for which a brother could not be pardoned, had he been guilty; and which deepens the shadow of a tyrannical age,

* See in Cro. Car. 120. the indictment against Burdett for compassing the king's death, and for that purpose conspiring with Stacie and Blake to calculate his nativity and his son's, *ad sciendum quando iidem rex et Edwardus ejus filius morientur*: Also for the same end dispersing divers rhymes and ballads de *murmurationibus, seditiõibus et proditoriis excitationibus, factas et fabricatas apud Holbourn, to the intent the people might withdraw their love from the king and desert him, ac erga ipsum regem insurgerent, et guerram erga ipsum regem levarent ad finalem destructionem ipsorum regis ac domini principis, &c.*

† Rot Parl. vol. vi. p. 193.

if, as it seems, his offence towards Edward was but levity and rashness.

But whatever acts of injustice we may attribute, from authority or conjecture, to Edward's government, it was very far from being unpopular. His love of pleasure, his affability, his courage and beauty, gave him a credit with his subjects, which he had no real virtues to challenge. This restored him to the throne, even against the prodigious influence of Warwick, and compelled Henry VII. to treat his memory with respect, and acknowledge him as a lawful king.* The latter years of his reign were pas-

* The rolls of Henry VII.'s first parliament are full of an absurd confusion in thought and language, which is rendered odious by the purposes to which it is applied. Both Henry VI. and Edward IV. are considered as lawful kings except in one instance, where Alan Cotterell, petitioning for the reversal of his attainder, speaks of Edward "late called Edward IV." (vol. vi. p. 290.) But this is only the language of a private Lancastrian. And Henry VI. passes for having been king during his short restoration in 1470, when Edward had been nine years upon the throne. For the Earl of Oxford is said to have been attainted "for the true allegiance and service he owed and did to Henry VI., at Barnet field and otherwise," (p. 281.) This might be reasonable enough on the true principle, that allegiance is due to a king *de facto*; if indeed we could determine who was the king *de facto* on the morning of the battle of Barnet. But this principle was not fairly recognized. Richard III. is always called, "in deed and not in right king of England." Nor was this merely founded on his usurpation as against his nephew. For that unfortunate boy is little better treated, and in the act of resumption, 1 H. VII., while Edward IV., is styled "late king," appears only with the denomination of "Edward his son late called Edward V." p. 336. Who then was king after the death of Edward IV.? And was his son really illegitimate, as an usurping uncle pretended? Or did the crime of Richard though punished in him, inure to the benefit of Henry? These were points, which like the fate of the young princes in

sed in repose at home after scenes of unparalleled convulsions, and in peace abroad, after more than a century of expensive warfare. His demands of subsidy were therefore moderate, and easily defrayed by a nation who were making rapid advances towards opulence. According to Sir John Fortescue, nearly one-fifth of the whole kingdom had come to the king's hand by forfeiture, at some time or other since the commencement of his reign.* Many indeed of these lands had been restored, and others lavished away in grants, but the surplus revenue must still have been considerable.

Edward IV. was the first who practised a new method of taking his subjects' money without consent of parliament, under the plausible name of benevolences. These came in place of the still more plausible loans of former monarchs, and were princ-

the Tower he chose to wrap in discreet silence. But the first question he seems to have answered in his own favour. For Richard himself, Howard duke of Norfolk, lord Lovel, and some others, were attainted (p. 276.) for 'traiterously intending, compassing and imagining' the death of Henry; of course before or at the battle of Bosworth; and while his right unsupported by possession, could have rested only on an hereditary title, which it was an insult to the nation to prefer. These monstrous proceedings explain the necessity of that conservative statute to which I have already alluded, which passed in the eleventh year of his reign, and afforded as much security for men following the plain line of rallying round the standard of their country as mere law can offer. It did not indeed protect Sir Henry Vane against a sophistical interpretation by that corrupt tool, Chief Justice Kelynge. There is some extraordinary reasoning upon this act in Carte's History, vol. ii. p. 844. for the purpose of proving that the adherents of George II. would not be protected by it on the restoration of the true blood.

† Difference of Absolute and limited Monarchy, p. 83.

pally levied on the wealthy traders. Though no complaints appear in the parliamentary records of his reign, which, as has been observed, complain of nothing, the illegality was undoubtedly felt and resented. In the remarkable address to Richard by that tumultuary meeting which invited him to assume the crown, we find, among general assertions of the state's decay through misgovernment, the following strong passage: "For certainly we be determined rather to aventure and committe us to the perill of oure lyfs and jopardie of deth, than to lyve in such thraldome and bondage as we have lyved long tyme heretofore oppressed and injured by extortions and newe impositions, ayenst the lawes of God and man, and the libertie, old policie, and laws of this realme, whereyn every Englishman is inherited."* According to Richard III.'s only parliament, an act was passed, which, after reciting in the strongest terms the grievances lately endured, abrogates and annuls for ever all exactions under the name of benevolence.† The liberties of this country were at least not directly impaired by the usurpation of Richard. But from an act so deeply tainted with moral guilt, as well as so violent in all its circumstances, no substantial benefit was likely to spring. Whatever difficulty there may be, and I confess it is not easy to be surmounted, in deciding upon the fate of Richard's nephews after they were immured in the Tower, the more public parts of the transaction

* Rot. Parl. vol. vi. p. 241.

† 1 R. III. c. 2.

hear unequivocal testimony to his ambitious usurpation. It would therefore be foreign to the purpose of this chapter to dwell upon his assumption of the regency, or upon the sort of election, however curious and remarkable, which gave a pretended authority to his usurpation of the throne. Neither of these has ever been alleged by any party in the way of constitutional precedent.

At this epoch I terminate these inquiries into the English constitution; a sketch very imperfect I fear and unsatisfactory, but which may at least answer the purpose of fixing the reader's attention on the principal objects, and of guiding him to the purest fountains of constitutional knowledge. From the accession of the house of Tudor a new period is to be dated in our history; far more prosperous in the diffusion of opulence, and the preservation of general order than the preceding, but less distinguished by the spirit of freedom and jealousy of tyrannical power. We have seen, through the twilight of our Anglo-Saxon records, a form of civil polity established by our ancestors; marked, like the kindred governments of the continent, with aboriginal Teutonic features; barbarous indeed, and insufficient for the great ends of society, but capable and worthy of the improvement it has received, because actuated by a sound and vital spirit, the love of freedom and of justice. From these principles arose that venerable institution, which none but a free and simple people could have conceived, trial by peers; an institution

common in some degree to other nations, but which, more widely extended, more strictly retained, and better modified among ourselves, has become perhaps the first, certainly among the first, of our securities against arbitrary government. We have seen a foreign conqueror and his descendants trample almost alike upon the prostrate nation, and upon those who had been the companions of their victory, introduce the servitudes of feudal law with more than their usual rigour, and establish a large revenue by continual precedents upon a system of universal and prescriptive extortion. But the Norman and English races, each unfit to endure oppression, forgetting their animosities in a common interest, enforce by arms the concession of a great charter of liberties. Privileges, wrested from one faithless monarch, are preserved with continual vigilance against the machinations of another; the rights of the people become more precise, and their spirit more magnanimous during the long reign of Henry III. With greater ambition, and greater abilities than his father, Edward I. attempts in vain to govern in an arbitrary manner, and has the mortification of seeing his prerogative fettered by still more important limitations. The great council of the nation is open to the representatives of the commons. They proceed by slow and cautious steps to remonstrate against public grievances, to check the abuses of administration, and sometimes to chastise public delinquency in the officers of the crown. A number of remedial provisions

are added to the statutes; every Englishman learns to remember that he is the citizen of a free state, and to claim the common law as his birthright, even though the violence of power should interrupt its enjoyment. It were a strange misrepresentation of history to assert, that the constitution had attained any thing like a perfect state in the fifteenth century; but I know not whether there are any essential privileges of our countrymen, any fundamental securities against arbitrary power, so far as they depend upon positive institution, which may not be traced to the time when the house of Plantagenet filled the English throne.

CHAPTER IX.

ON THE STATE OF SOCIETY IN EUROPE DURING THE
MIDDLE AGES.

PART I.

Introduction—Decline of Literature in the latter period of the Roman Empire—its causes—Corruption of the Latin Language—Means by which it was effected—Formation of new Languages—General Ignorance of the Dark Ages—Scarcity of Books—Causes that prevented the total Extinction of Learning—Prevalence of Superstition and Fanaticism—General Corruption of Religion—Monasteries—their Effects—Pilgrimages—Love of Field Sports—State of Agriculture—of Internal and Foreign Trade down to the End of the Eleventh Century—Improvement of Europe dated from that Age.

IT has been the object of every preceding chapter of this work, either to trace the civil revolutions of states during the period of the middle ages, or to investigate, with rather more minute attention, their political institutions. There remains a large tract to be explored, if we would complete the circle of historical information, and give to our knowledge that copiousness and clear perception which arise from comprehending a subject under numerous rela-

tions. The philosophy of history embraces far more than the wars and treaties, the factions and cabals of common political narration; it extends to whatever illustrates the character of the human species in a particular period, to their reasonings and sentiments, their arts and industry. Nor is this comprehensive survey merely interesting to the speculative philosopher; without it, the statesman would form very erroneous estimates of events, and find himself constantly misled in any analogical application of them to present circumstances. Nor is it an uncommon fallacy to neglect the general signs of the times, and to deduce a prognostic from some partial coincidence with past events, where a more enlarged comparison of all the facts that ought to enter into the combination would destroy the whole parallel. The philosophical student, however, will not follow the antiquary into his minute details; and though it is hard to say what may not supply matter for a reflecting mind, there is always some danger of losing sight of grand objects in historical disquisition, by too laborious a research into trifles. I may possibly be thought to furnish, in some instances, an example of the error I condemn. But in the choice and disposition of topics to which the present chapter relates, some have been omitted on account of their comparative insignificance, and others on account of their want of connection with the leading subject. Even of those treated I can only undertake to give a transient view; and must bespeak the reader's candour, to remem-

ber, that passages which, separately taken, may often appear superficial, are but parts of the context of a single chapter, as the chapter itself is of an entire work.

The Middle Ages, according to the division I have adopted, comprize about one thousand years, from the invasion of France by Clovis to that of Naples by Charles VIII. This period, considered as to the state of society, has been esteemed dark through ignorance, and barbarous through poverty and want of refinement. And although this character is much less applicable to the two last centuries of the period, than to those which preceded its commencement, yet we cannot expect to feel in respect of ages at best imperfectly civilized and slowly progressive, that interest which attends a more perfect development of human capacities, and more brilliant advances in improvement. The first moiety indeed of these ten ages is almost absolutely barren, and presents little but a catalogue of evils. The subversion of the Roman empire, and devastation of its provinces by barbarous nations, either immediately preceded, or were coincident with the commencement of the middle period. We begin in darkness and calamity; and, though the shadows grow fainter as we advance, yet we are to break off our pursuit as the morning breathes upon us, and the twilight reddens into the lustre of day.

No circumstance is so prominent on the first survey of society during the earlier centuries of this

period as the depth of ignorance in which it was immersed; and as from this, more than any single cause, the moral and social evils which those ages experienced appear to have been derived and perpetuated, it deserves to occupy the first place in the arrangement of our present subject. We must not altogether ascribe the ruin of literature to the barbarian destroyers of the Roman empire. So gradual, and, apparently, so irretrievable a decay had long before spread over all liberal studies, that it is impossible to pronounce whether they would not have been almost equally extinguished, if the august throne of the Cæsars had been left to moulder by its intrinsic weakness. Under the paternal sovereignty of Marcus Aurelius, the approaching declension of learning might be scarcely perceptible to an incurious observer. There was much indeed to distinguish his times from those of Augustus; much lost in originality of genius, in correctness of taste, in the masterly conception and consummate finish of art, in purity of the Latin, and even of the Greek language. But there were men who made the age famous, grave lawyers, judicious historians, wise philosophers; the name of learning was honourable, its professors were encouraged; and along the vast surface of the Roman empire there was perhaps a greater number, whose minds were cultivated by intellectual discipline, than under the more brilliant reign of the first emperor.

It is not, I think, very easy to give a perfectly

satisfactory solution of the rapid downfall of literature between the ages of Antonine and of Diocletian. Perhaps the prosperous condition of the empire from Trajan to Marcus Aurelius, and the patronage which those good princes bestowed on letters, gave an artificial health to them for a moment, and suspended the operation of a disease which had already begun to undermine their vigour. Perhaps the intellectual energies of mankind can never remain stationary; and a nation that ceases to produce original and inventive minds, born to advance the land-marks of knowledge or skill, will recede from step to step, till it loses even the secondary merits of imitation and industry. During the third century, not only were there no great writers, but even few names of indifferent writers have been recovered by the diligence of modern inquiry.* Law neglected, philosophy perverted till it became contemptible, history nearly silent, the Latin tongue growing rapidly barbarous, poetry rarely and feebly attempted, art more and more vitiated; such were the symptoms by which the age previous to Constantine announced the decline of human intellect. If we cannot fully account for this unhappy change, as I have observed, we must, however, assign much weight to the degradation of Rome and Italy in the system of Severus and his succes-

* The authors of *Histoire Littéraire de la France*, t. i. can only find three writers of Gaul, no inconsiderable part of the Roman empire, mentioned upon any authority; two of whom are now lost. In the preceding century the number was considerably greater.

sors, to the admission of barbarians into the military and even civil dignities of the empire, to the discouraging influence of provincial and illiterate sovereigns, and to the calamities which followed for half a century the first invasion of the Goths and the defeat of Decius. To this sickly condition of literature the fourth century supplied no permanent remedy. If under the house of Constantine the Roman world suffered rather less from civil warfare or barbarous invasions, than in the preceding age, yet every other cause of decline just enumerated prevailed with aggravated force; and the fourth century set in storms, sufficiently destructive in themselves, and ominous of those calamities which humbled the majesty of Rome at the commencement of the ensuing period, and overwhelmed the western empire in absolute and final ruin before its terminatio.

The diffusion of literature is perfectly distinguishable from its advancement, and whatever obscurity we may find in explaining the variations of the one, there are a few simple causes which seem to account for the other. Knowledge will be spread over the surface of a nation in proportion to the facilities of education, to the free circulation of books, to the emoluments and distinctions which literary attainments are found to produce, and still more to the reward which they meet in the general respect and applause of society. This cheering incitement, the genial sunshine of approbation, has at all times promoted the cultivation of literature in small republics; ra-

ther than large empires, and in cities compared with the country. If these are the sources which nourish literature, we should naturally expect that they must have become scanty or dry, when learning languishes or expires. Accordingly in the later ages of the Roman empire a general indifference towards the cultivation of letters became the characteristic of its inhabitants. Laws were indeed enacted by Constantine, Julian, Theodosius, and other emperors, for the encouragement of learned men and the promotion of liberal education. But these laws, which would not perhaps have been thought necessary in better times, were unavailing to counteract the lethargy of ignorance in which even the native citizens of the empire were contented to repose. This alienation of men from their national literature may doubtless be imputed, in some measure, to its own demerits. A jargon of mystical philosophy, half fanaticism and half imposture, a barren and inflated eloquence, a frivolous philology, were not among those charms of wisdom, by which man is to be diverted from pleasure or aroused from indolence.

In this temper of the public mind, there was little probability that new compositions of excellence would be produced, and much doubt whether the old would be preserved. Since the invention of printing, the absolute extinction of any considerable work seems a danger too improbable for apprehension. The press pours forth in a few days a thousand volumes, which scattered, like seed in the air, over the

republic of Europe, could hardly be destroyed without the extirpation of its inhabitants. But in the times of antiquity, manuscripts were copied with cost, labour, and delay; and if the diffusion of knowledge be measured by the multiplication of books, no unfair standard, the most golden ages of ancient learning could never bear the least comparison with the three last centuries. The destruction of a few libraries by accidental fire, the desolation of a few provinces by unsparing and illiterate barbarians, might annihilate every vestige of an author, or leave a few scattered copies, which, from the public indifference, there was no inducement to multiply, exposed to similar casualties in succeeding times.

We are warranted by good authorities to assign, as a collateral cause of this irretrievable revolution, the neglect of heathen literature by the Christian church. I am not versed enough in ecclesiastical writers to estimate the degree of this neglect; nor am I disposed to deny that the mischief was beyond recovery before the accession of Constantine. From the primitive ages, however, it seems that a dislike of pagan learning was pretty general among Christians. Many of the fathers undoubtedly were accomplished in liberal studies, and we are indebted to them for valuable fragments of authors whom we have lost. But the literary character of the church is not to be measured by that of its more illustrious leaders. Proscribed and persecuted, the early Christians had not perhaps access to the public schools, nor

inclination to studies which seemed, very excusably, uncongenial to the character of their profession. Their prejudices, however, survived the establishment of Christianity. The fourth council of Carthage in 398 prohibited the reading of secular books by bishops. Jerome plainly condemns the study of them, except for pious ends. All physical science, especially, was held in avowed contempt, as inconsistent with revealed truths. Nor do there appear to have been any canons made in favour of learning, or any restriction on the ordination of persons absolutely illiterate.* There was, indeed, abundance of what is called theological learning displayed in the controversies of the fourth and fifth centuries. And those who admire such disputations may consider the principal champions in them as contributing to the glory, or at least retarding the decline, of literature. But I believe rather that polemical disputes will be found not only to corrupt the genuine spirit of religion, but to degrade and contract the faculties. What keenness and subtlety these may sometimes acquire by such exercise is more like that wordly shrewdness we see in men whose trade it is to outwit their neighbours, than the clear and calm discrimination of philosophy. However this may be, it cannot be doubted that the controversies agitated in the church

* Mosheim, Cent. 4. Tiraboschi endeavours to elevate higher the learning of the early Christians. t. ii. p. 328. Jortin, however, asserts that many of the bishops in the general councils of Ephesus and Chalcedon could not write their names. Remarks on Ecclesiast. Hist. vol. ii. p. 417.

during these two centuries must have diverted studious minds from profane literature, and narrowed more and more the circle of that knowledge which they were desirous to attain.

The torrent of irrational superstitions which carried all before it in the fifth century, and the progress of ascetic enthusiasm, had an influence still more decidedly inimical to learning. I cannot indeed conceive any state of society more adverse to the intellectual improvement of mankind, than one which admitted of no middle line between gross dissoluteness and fanatical mortification. An equable tone of public morals, social and humane, verging neither to voluptuousness nor austerity, seems the most adapted to genius, or at least to letters, as it is to individual comfort and national prosperity. After the introduction of monkery and its unsocial theory of duties, the serious and the reflecting part of mankind, on whom science mostly relies, were turned to habits which, in the most favourable view, could not quicken the intellectual energies; and it might be a difficult question, whether the cultivators and admirers of useful literature were less likely to be found among the profligate citizens of Rome and their barbarian conquerors, or the melancholy recluses of the wilderness.

Such, therefore, was the state of learning before the subversion of the Western Empire. And we may form some notion how little probability there was of its producing any excellent fruits, even if that

revolution had never occurred, by considering what took place in Greece during the subsequent ages ; where, although there was some attention shown to preserve the best monuments of antiquity, and diligence in compiling from them, yet no one original writer of any superior merit arose, and learning, though plunged but for a short period into mere darkness, may be said to have languished in a middle region of twilight for the greater part of a thousand years.

But, not to delay ourselves in this speculation, the final settlement of barbarous nations in Gaul, Spain, and Italy consummated the ruin of literature. Their first irruptions were uniformly attended with devastation ; and if some of the Gothic kings, after their establishment, proved humane and civilized sovereigns, yet the nation gloried in its original rudeness, and viewed with no unreasonable disdain, arts, which had neither preserved their cultivators from corruption, nor raised them from servitude. Theodoric, the most famous of the Ostrogoth kings in Italy, could not write his name, and is said to have restrained his countrymen from attending those schools of learning, by which he, or rather perhaps his minister Cassiodorus, endeavoured to revive the studies of his Italian subjects. Scarcely one of the barbarians, so long as they continued unconfused with the native inhabitants, acquired the slightest tincture of letters ; and the praise of equal ignorance was soon aspired to and attained by the entire mass of the Roman

laity. They, however, could hardly have divested themselves so completely of all acquaintance with even the elements of learning, if the language, in which the books were written, had not ceased to be their natural dialect. This remarkable change in the speech of France, Spain and Italy, is most intimately connected with the extinction of learning; and there is enough of obscurity, as well as of interest, in the subject, to deserve some discussion.

It is obvious on the most cursory view of the French and Spanish languages, that they as well as the Italian, are derived from one common source, the Latin. That must, therefore, have been at some period, and certainly not since the establishment of the barbarous nations in Spain and Gaul, substituted in ordinary use for the original dialects of those countries, which are generally supposed to have been Celtic, not essentially differing from that which is spoken in Wales and Ireland. Rome, says Augustin, imposed not only her yoke, but her language upon conquered nations. The success of such an attempt is indeed very remarkable. Though it is the natural effect of conquest, or of commercial intercourse, to engraft fresh words and foreign idioms on the stock of the original language, yet the entire disuse of the latter, and adoption of one radically different, scarcely takes place in the lapse of a far longer period than that of the Roman dominion in Gaul. Thus, in part of Britany, the people speak a language which has perhaps sustained no essential

alteration from the revolution of two thousand years; and we know how steadily another Celtic dialect has kept its ground in Wales, notwithstanding English laws and government, and the long line of contiguous frontier which brings the natives of that principality into contact with Englishmen. Nor did the Romans ever establish their language, I know not whether they wished to do so in this island, as we perceive by that stubborn British tongue which has survived two conquests.*

In Gaul and Spain, however, they did succeed, as the present state of the French and peninsular languages renders undeniable, though by gradual changes, and not, as the Benedictine authors of the *Histoire Litteraire de la France* seem to imagine, by a sudden and arbitrary innovation.† This is neither possible in itself, nor agreeable to the testimony of Irenæus, bishop of Lyons, at the end of the second

* Gibbon roundly asserts, that "the language of Virgil and Cicero, though with some inevitable mixture of corruption, was so universally adopted in Africa, Spain, Gaul, Great Britain, and Pannonia, that the faint traces of the Punic or Celtic idioms were preserved only in the mountains, or among the peasants." *Decline and Fall*, vol. i. p. 60. (8vo. edit.) For Britain he quotes Tacitus's *Life of Agricola* as his voucher. But the only passage in this work that gives the least colour to Gibbon's assertion is one in which Agricola is said to have encouraged the children of British chieftains to acquire a taste for liberal studies, and to have succeeded so much by judicious commendation of their abilities, *ut qui modò linguam Romanam abnuebant, eloquentiam concupiscerent.* (c. 21.) This, it is sufficiently obvious, is very different from the national adoption of Latin, as another-tongue.

† t. vii. preface.

century, who laments the necessity of learning Celtic.* But, although the inhabitants of these provinces came at length to make use of Latin so completely as their mother-tongue, that few vestiges of their original Celtic could perhaps be discovered in their common speech, it does not follow that they spoke with the pure pronunciation of Italians, far less with that conformity to the written sounds, which we assume to be essential to the expression of Latin words.

It appears to be taken for granted, that the Romans pronounced their language as we do at present, so far at least as the enunciation of all the consonants, however we may admit our deviations from the classical standard, in propriety of sounds, and in measure of time. Yet the example of our own language, and of French, might show us that orthography may become a very inadequate representative of pronunciation. It is indeed capable of proof, that in the purest ages of Latinity, some variations existed between these two. Those numerous changes in spelling which distinguish the same words in the poetry of Ennius and Virgil are best explained by the supposition of their being accommodated to the current pronunciation. Harsh combinations of letters, softened down through delicacy of ear, or rapidity of utterance, gradually lost their place in the

* It appears, by a passage quoted from the digest by M. Bonamy, *Mem. de l'Acad. des Inscriptions*, t. xxiv. p. 589. that Celtic was spoken in Gaul, or at least parts of it, as well as Punic in Africa.

written language. Thus *exfregit* and *adrogavit* assumed a form representing their more liquid sound; and *auctor* was latterly spelled *autor*, which has been followed in French and Italian. *Autor* was probably so pronounced at all times; and the orthography was afterwards corrected or corrupted, which ever we please to say, according to the sound. We have the best authority to assert, that the final *m* was very faintly pronounced, rather, it seems, as a rest and short interval between two syllables, than an articulate letter; nor indeed can we conceive upon what other ground it was subject to elision before a vowel in verse; since we cannot suppose that the nice ears of Rome would have submitted to a capricious rule of poetry, for which Greece presented no analogy.*

A decisive proof, in my opinion, of the deviation which took place, through the rapidity of ordinary elocution, from the strict laws of enunciation, may be found in the metre of Terence. His verses, which are absolutely refractory to the common laws of prosody, may be readily scanned by the application of this principle. Thus, in the first act of the *Heautontimorumenos*, a part selected at random, I have found, I. Vowels contracted or dropped, so as to

* Atqui eadem illa litera, quoties ultima est, et vocalem verbi sequentis ita contingit, ut in eam transire possit, etiam si scribitur, tamen parum exprimitur, ut *Multum ille*, et *Quantum erat*: adeo ut pene cujusdam novæ literæ sonum reddat. Neque enim eximitur, sed obscuratur, et tantùm aliqua inter duos vocales velut nota est, ne ipsæ coeant. Quintilian, Institut. l. ix. c. 4. p. 595. edit. Capperonier.

shorten the word by a syllable; in *rei, via, diutius, ei, solius, eam, unius, suam, divitias, senex, voluptatem, illius, semel*; II. The proceleusmatic foot, or four short syllables, instead of the dactyl; scen. i. v. 59. 73. 76. 88. 109. scen. ii. v. 36. III. The elision of *s* in words ending with *us*, or *is* short, and sometimes even of the whole syllable, before the next word beginning with a vowel; in scen. i. v. 30. 81. 98. 101. 116. 119. scen. ii. v. 28. IV. The first syllable of *ille* is repeatedly shortened, and indeed nothing is more usual in Terence than this license; whence we may collect how ready this word was for abbreviations into the French and Italian articles. V. The last letter of *apud* is cut off, scen. i. v. 120. and scen. ii. v. 8. VI. *Hodie* is used as a pyrrhichius in scen. ii. v. 11. VII. Lastly, there is a clear instance of a short syllable, the antepenultimate of *impulerim*, lengthened on account of the accent, at the 113th verse of the first scene.

These licences are in all probability chiefly colloquial, and would not have been adopted in public harangues, to which the precepts of rhetorical writers commonly relate. But if the more elegant language of the Romans, since such we must suppose to have been copied by Terence for his higher characters, differed so much in ordinary discourse from their orthography, it is probable that the vulgar went into much greater deviations. The popular pronunciation errs generally, we might say perhaps invariably, by abbreviation of words, and by liquefying consonants,

as is natural to the rapidity of colloquial speech.* It is by their knowledge of orthography and etymology, that the more educated parts of the community are preserved from these corrupt modes of pronunciation. There is always therefore a standard by which common speech may be rectified; and in proportion to the diffusion of knowledge and politeness, the deviations from it will be more slight and gradual. But in distant provinces, and especially where the language itself is but of recent introduction, many more changes may be expected to occur. Even in France and England, there are provincial dialects, which if written with all their anomalies of pronunciation as well as idiom, would seem strangely out of unison with the regular language; and in Italy, as is well known, the varieties of dialect are still more striking. Now, in an advancing state of society, and especially with such a vigorous political circulation as we now experience in England, language will constantly approximate to uniformity, as provincial expressions are more and more rejected

* The following passage of Quintilian is an evidence both of the omission of harsh or superfluous letters, by the best speakers, and of the corrupt abbreviations usual with the worst. *Dilucida vero erit pronuntiatio, primum, si verba tota exegerit, quorum pars devorari, pars destitui solet, plerisque extremas syllabas non proferentibus, dum priorum sono indulgent. Ut est autem necessaria verborum explanatio, ita omnes computare et velut adnumerare literas, molestum et odiosum. Nam et vocales frequentissimè coeunt, et consonantium quædam insequente vocali dissimulantur; utriusque exemplum posuimus; Multum ille et terris. Vitatur etiam duriorum inter se congressus, unde *pellexit* et *collegit*, et quæ alio loco dicta sunt. l. ii. c. 3. p. 696.*

for incorrectness or inelegance. But, where literature is on the decline, and public misfortunes contract the circle of those who are solicitous about refinement, as in the last ages of the Roman empire, there will be no longer any definite standard of living speech, nor any general desire to conform to it, if one could be found; and thus the vicious corruptions of the vulgar will entirely predominate. The niceties of ancient idiom will be totally lost; while new idioms will be formed out of violations of grammar, sanctioned by usage which, among a civilized people would have been proscribed at their appearance.

Such appears to have been the progress of corruption in the Latin language. The adoption of words from the Teutonic dialects of the barbarians, which took place very freely, would not of itself have destroyed the character of that language, though it sullied its purity. The worst law Latin of the middle ages is still Latin, if its barbarous terms have been bent to the regular inflexions. It is possible, on the other hand, to write whole pages of Italian, wherein every word shall be of unequivocal Latin derivation, though the character and personality, if I may so say, of the language be entirely dissimilar. But, as I conceive, the loss of literature took away the only check upon arbitrary pronunciation and upon erroneous grammar. Each people innovated through caprice, imitation of their neighbours, or some of those indescribable causes, which dispose the organs of different nations to different sounds. The French melt-

ed down the middle consonants ; the Italians omitted the final. Corruptions arising out of ignorance were mingled with those of pronunciation. It would have been marvellous, if illiterate and semi-barbarous provincials had preserved that delicate precision in using the inflexions of tenses, which our best scholars do not clearly attain. The common speech of any people whose language is highly complicated, will be full of solecisms. The French inflexions are not comparable in number or delicacy to the Latin, and yet the vulgar confuse their most ordinary forms.

But, in all probability, the variation of these derivative languages from popular Latin has been considerably less than it appears. In the purest ages of Latinity, the citizens of Rome itself made use of many terms which we deem barbarous, and of many idioms which we should reject as modern. That highly complicated grammar, which the best writers employed, was too elliptical and obscure, too deficient in the connecting parts of speech, for general use. We cannot indeed ascertain in what degree the vulgar Latin differed from that of Cicero or Seneca. It would be highly absurd to imagine, as some are said to have done, that modern Italian was spoken at Rome under Augustus.* But I believe it may be asserted, not only that much the greater part of those words in the present language of Italy, which strike

* Tiraboschi (*Storia dell. Lett. Ital* t. iii. preface, p. v.) imputes this paradox to Bembo and Quadrio: but I can hardly believe that either of them could maintain it in a literal sense.

us as incapable of a Latin etymology, are in fact derived from those current in the Augustan age, but that very many phrases which offended nicer ears prevailed in the same vernacular speech, and have passed from thence into the modern French and Italian. Such, for example, was the frequent use of prepositions to indicate a relation between two parts of a sentence, which a classical writer would have made to depend on mere inflexion.†

From the difficulty of retaining a right discrimination of tense seems to have proceeded the active auxiliary verb. It is possible that this was borrowed from the Teutonic languages of the barbarians, and accommodated both by them and by the natives to words of Latin origin. The passive auxiliary is obtained by a very ready resolution of any tense in that mood, and has not been altogether dispensed with even in Greek, while in Latin it is used much more frequently. It is not quite so easy to perceive the propriety of the active *habeo* or *teneo*, one or both of which all modern languages have adopted as their auxiliaries in conjugating the verb. But in some instances this analysis is proper enough; and it may be supposed that nations, careless of etymology or correctness, applied the same verb by a rude analogy

† M. Bonamy, in an essay printed in *Mem. de l'Academie des Inscriptions*, t. xxiv. has produced several proofs of this from the classical writers on agriculture and other arts, though some of his instances are not in point, as any schoolboy would tell him. This essay which by some accident, had escaped my notice till I had nearly finished the observations in my text, contains, I think, the best view that I have seen of the process of

to cases where it ought not strictly to have been employed.*

Next to the changes founded on pronunciation and to the substitution of auxiliary verbs for inflections, the usage of the definite and indefinite articles in nouns appears the most considerable step in the transmutation of Latin into its derivative languages. None but Latin, I believe, has ever wanted this part of speech; and the defect, to which custom reconciled the Romans, would be an insuperable stumbling-block to nations who were to translate their original idiom into that language. A coarse expedient of applying *unus*, *ipse* or *ille* to the purposes of an article might perhaps be no unfrequent vulgarism of the provincials; and after the Teutonic tribes brought in their own grammar, it was natural that a corruption should become universal, which in fact supplied a real and essential deficiency.

That the quantity of Latin syllables is neglected, or rather lost in modern pronunciation, seems to be generally admitted. Whether indeed the ancient Romans, in their ordinary speaking, distinguished the measure of syllables with such uniform musical accuracy as we imagine, giving a certain time to those termed long, and exactly half that duration to the short, might perhaps be questioned; though this

transition by which Latin was changed into French and Italian. Add, however, the preface to Tiraboschi's third volume and the thirty-second dissertation of Muratori.

* See Lanzi, Saggio della Lingua Etrusca, t. i. p. 431.; Mem. de l'Acad. des Inscript. t. xxiv. p. 632.

was probably done, or attempted to be done, by every good reader of poetry. Certainly, however, the laws of quantity were forgotten, and an accentual pronounciation came to predominate, before Latin had ceased to be a living language. A Christian writer, named *Commodianus*, who lived before the end of the third century, according to some, or, as others think, in the reign of *Constantine*, has left us a philological curiosity, in a series of attacks on the pagan superstitions, composed in what are meant to be verses, regulated by accent instead of quantity, exactly as we read *Virgil* at present.*

* No description can give so adequate a notion of this extraordinary performance as a short specimen. Take the introductory lines; which really, prejudices of education apart, are by no means inharmonious:

*Præfatio nostra viam erranti demonstrat,
Respectumque bonum, cum venerit sæculi meta,
Æternum fieri, quod discredunt inscia corda.
Ego similiter erravi tempore multo,
Fana prosequendo, parentibus insciis ipsis.
Abstuli me tandem inde, legendo de lege.
Testificor Dominum, doleo, proh! civica turba
Insicia quod perdit, pergens deos quærere vanos.
Ob ea perdoctus ignaros instruo verum.*

Commodianus however did not keep up to this excellence in every part. Some of his lines are not reducible to any pronounciation, without the summary rules of *Procrustes*; as for instance—

Paratus ad epulas, et refugiscere præcepta; or Capillos inficitis, oculos fuligine relinitis.

It must be owned, that his text is exceedingly corrupt, and I should not despair of seeing a truly critical editor nurse his lines into unblemished hexameters. Till this time arrives, however, we must consider him either as utterly ignorant of metrical distinctions, or at least as aware that the populace whom he addressed did not observe them in speaking. *Commodianus* is

It is not improbable that Commodianus may have written in Africa, the province in which, more than any, the purity of Latin was debased. At the end of the fourth century, St. Augustin assailed his old enemies, the Donatists, with nearly the same arms that Commodianus had wielded against heathenism. But as the refined and various music of hexameters was unlikely to be relished by the vulgar, he prudently adopted a different measure.* All the nations of Europe seem to love the trochaic verse; it was frequent on the Greek and Roman stage; it is more common than any other in the popular poetry of modern languages. This proceeds from its simplicity, its liveliness, and its ready accommodation to dancing and music. In St. Augustin's poem, he united to a trochaic measure the novel attraction of rhyme.

As Africa must have lost all regard to the rules of measure in the fourth century, so it appears that Gaul was not more correct in the two next ages. A poem addressed by Auspicius, bishop of Toul, to published by Dawes at the end of his edition of Minucius Felix. Some specimens are quoted in Harris's *Philological Inquiries*.

* *Archæologia*, vol. xiv. p. 188. The following are the first lines:

Abundantia peccatorum solet fratres conturbare;
 Propter hoc Dominus noster hoc voluit nos præmonere,
 Comparans regnum cælorum reticulo misso in mare,
 Congreganti multos pisees, omne genus hinc et inde,
 Quos cum traxissent ad littus, tunc cæperunt separare,
 Bonos in vasa miserunt, reliquos malos in mare.

This trash seems below the level of Augustin; but it could not have been much later than his age.

Count Arbogastes, of earlier date probably than the invasion of Clovis, is written with no regard to quantity.* The bishop by whom this was composed is mentioned by his contemporaries as a man of learning. Probably he did not chuse to perplex the barbarian to whom he was writing (for Arbogastes is plainly a barbarous name) by legitimate Roman metre. In the next century, Gregory of Tours informs us that Chilperic attempted to write Latin verses; but the lines could not be reconciled to any division of feet; his ignorance having confounded long and short syllables together.† Now Chilperic must have learned to speak Latin like other kings of the Franks, and was a smatterer in several kinds of literature. If Chilperic therefore was not master of these distinctions, we may conclude that the bishops and other Romans with whom he conversed did not observe them; and that his blunders in versification arose from ignorance of rules, which, however fit to be preserved in poetry, were entirely obsolete in the

* *Recueil des Historiens*, t. i. p. 815.; it begins in the following manner:

Præcelso expectabili bis Arbogasto comiti,
 Auspicius, qui diligo, salutem dico plurimam.
 Magnas cœlesti Domino rependo corde gratias
 Quod te Tullensi proxime magnum in urbe vidimus.
 Multis me tuis artibus lætificabas antea,
 Sed nunc fecisti maximo me exultare gaudio.

† Chilpericus rex confecit duos libros, quorum versiculi debiles nullis pedibns subsistere possunt; in quibus, dum non intelligebat, pro longis syllabas breves posuit, et pro brevibus longas statuebat. l. vi. c. 46.

living Latin of his age. Indeed the frequency of false quantities in the poets even of the fifth, but much more of the sixth century, is palpable. Fortunatus is quite full of them. This seems a decisive proof that the ancient pronunciation was lost. Avitus tells us, even at the beginning of the same age, that few preserved the proper measure of syllables in singing. Yet he was bishop of Vienne, where a purer pronunciation might be expected than in the remoter parts of Gaul.*

Defective, however, as it had become in respect of pronunciation, Latin was still spoken in France during the sixth and seventh centuries. We have compositions of that time, intended for the people, in grammatical language. A song is still extant, in rhyme and loose accentual measure, written upon a victory of Clotaire II. over the Saxons in 622, and obviously intended for circulation among the people.† Fortunatus says, in his life of St. Aubin of Angers, that

* Mém, de l'Academie des Inscriptions, t. xvii. Hist. Littéraire de la France, t. ii. p. 28.

† One stanza of this song will suffice to shew, that the Latin language was yet unchanged.

De Clotaro est canere rege Francorum,
 Qui ivit pugnare cum gente Saxonum,
 Quam graviter provenisset missis Saxonum,
 Si non fuisset inclitus Faro de gente Burgundionum.

I observe that Ritson, *Metrical Romances*, vol. i. p. 18. translates the last line: "If it had not been for *Pharaoh, the Burgundian*." What abuse he would have thrown on any one else for a blunder like this! Faro is the same as baro, a nobleman, or, sometimes, simply a man.

he should take care not to use any expression unintelligible to the people.* Baudemind, in the middle of the seventh century, declares, in his life of St. Amand, that he writes in a rustic and vulgar style, that the reader may be excited to imitation.† Not that these legends were actually perused by the populace; for the very art of reading was confined to a few. But they were read publicly in the churches, and probably with a pronunciation accommodated to the corruptions of ordinary language. Still the Latin syntax must have been tolerably understood; and we may therefore say that Latin had not ceased to be a living language in Gaul during the seventh century. Faults indeed against the rules of grammar, as well as the usual idioms, perpetually occur in the best writers of the Merovingian period, such as Gregory of Tours; while charters drawn up by less expert scholars deviate much farther from purity.†

The corrupt provincial idiom became gradually more and more dissimilar to grammatical Latin; and the *lingua Romana rustica*, as the vulgar *patois* (to borrow a word that I cannot well translate) has been called, acquired a distinct character as a new lan-

* Præcavendum est, ne ad aures populi minus aliquid intelligibile proferatur. Mem. de l'Acad. t. xvii. p. 712.

† Rustico et plebeio sermone, propter exemplum et imitationem. id. ibid.

‡ Hist. Littéraire de la France, t. iii. p. 5. Mem. de l'Académie, t. xxiv. p. 617. Nouveau Traité de Diplomatique, t. iv. p. 485.

guage in the eighth century.* Latin orthography, which had been hitherto pretty well maintained in books, though not always in charters, gave way to a new spelling, conformable to the current pronunciation. Thus we find *lui*, for *illius*, in the Formularies of Marculfus; and *Tu lo juva* in a liturgy of Charlemagne's age, for *Tu illum juva*. When this barrier was once broken down, such a deluge of innovation poured in, that all the Latin characteristics were effaced in writing as well as speaking, and the existence of a new language became undeniable. In a council held at Tours in 813, the bishops are ordered to have certain homilies of the fathers translated into the rustic Roman, as well as the German tongue.† After this it is unnecessary to multiply proofs of the change which Latin had undergone.

In Italy, the progressive corruptions of the Latin language were analogous to those which occurred in France, though we do not find in writings any unequivocal specimens of a new formation at so early a period. But the old inscriptions, even of the fourth and fifth centuries, are full of solecisms and corrupt orthography. In legal instruments under the Lombard kings, the Latin inflexions are indeed used, but

* *Hist. Litteraire de la France*, t. vii. p. 12. The editors say, that it is mentioned by name even in the seventh century, which is very natural, as the corruption of Latin had then become striking.

† *Mem. de l'Acad. des Insc.* t. xvii. See two *Memoirs* in this volume by du Clos and le Bœuf, especially the latter, as well as that already mentioned in t. xxiv. p. 582. by M. Bonamy.

with so little regard to propriety, that it is obvious the writers had not the slightest tincture of grammatical knowledge. This observation extends to a very large proportion of such documents down to the twelfth century, and is as applicable to France and Spain as it is to Italy. In these charters the peculiar characteristics of Italian orthography and grammar frequently appear. Thus we find, in the eighth century, *diveatis* for *debeatis*, *da* for *de* in the ablative, *avendi* for *habendi*, *dava* for *dabat*, *cedo a deo*, and *ad ecclesia*, among many similar corruptions.* Latin was so changed, it is said by a writer of Charlemagne's age, that scarcely any part of it was popularly known. Italy indeed had suffered more than France itself by invasion, and was reduced to a lower state of barbarism, though probably from the greater distinctness of pronunciation habitual to the Italians, they lost less of their original language than the French. I do not find, however, in the writers who have treated this subject, any express evidence of a vulgar language distinct from Latin, earlier than the close of the tenth century, when it is said in the epitaph of Pope Gregory V., who died in 999, that he instructed the people in three dialects;—the Frankish or German, the vulgar, and the Latin :

Usus Francisca, vulgari, et voce Latina,
Instituit populos eloquio triplici.†

* Muratori, Dissert. i. and xliii.

† Fontanini, dell' Eloquenza Italiana, p. 85. Muratori, Dissert. xxxii.

When the Latin had thus ceased to be a living language, the whole treasury of knowledge was locked up from the eyes of the people. The few who might have imbibed a taste for literature, if books had been accessible to them, were reduced to abandon pursuits that could only be cultivated through a kind of education not easily within their reach. Schools, confined to cathedrals and monasteries, and exclusively designed for the purposes of religion, afforded no encouragement or opportunities to the laity.* The worst effect was, that as the newly formed languages were hardly made use of in writing, Latin being still preserved in all legal instruments and public correspondence, the very use of letters, as well as of books, was forgotten. For many centuries, to sum up the account of ignorance in a word, it was rare for a layman, of whatever rank, to know how to sign his name.† Their charters till the use of seals became general, were subscribed with the mark of the cross. Still more extraordinary it was to find one who had any tincture of learn-

* *Histoire Litteraire de la France*, t. vi. p. 20. Muratori, *Dissert.* xliii.

† *Nouveau Traite de Diplomatie*, t. ii. p. 419. This became, the editors say, much less unusual about the end of the thirteenth century; a pretty late period! A few signatures to deeds appears in the fourteenth century; in the next they are more frequent. *ibid.* The Emperor Fredric Barbarossa could not read, (*Struvius Corpus Hist. German.*, t. i. p. 377.;) nor John king of Bohemia in the middle of the fourteenth century, (*Sismondi*, t. v. p. 205.) nor Philip the Hardy king of France, although the son of St. Louis. (*Velly*, t. vi. p. 426.)

ing. Even admitting every indistinct commendation of a monkish biographer, (with whom a knowledge of church-music would pass for literature,)* we could make out a very short list of scholars. None certainly were more distinguished as such than Charlemagne and Alfred. But the former, unless we reject a very plain testimony, was incapable of writing;† and Alfred found difficulty in making a translation from the pastoral instruction of St. Gregory, on account of his imperfect knowledge of Latin.‡

Whatever mention, therefore, we find of learning and the learned, during these dark ages, must be understood to relate only to such as were within the pale of clergy, which indeed was pretty extensive, and comprehended many who did not exercise the offices of religious ministry. But even the clergy were, for a long period, not very materially superior,

* Louis IV., king of France laughing at Fulk, count of Anjou, who sang anthems among the choristers of Tours, received the following pithy epistle from his learned vassal: *Noveritis, domine, quod rex illiteratus est asinus coronatus. Gesta Consulum Andegavensium.* In the same book, Geoffrey, father of our Henry II., is said to be *optime literatus*; which perhaps imports little more learning than his ancestor Fulk possessed.

† The passage in Eginhard, which has occasioned so much dispute, speaks for itself: *Tentabat et scribere, tabulasque et codicillos ad hoc in lexiculo sub cervicalibus circumferre solebat, ut, cum vacuum tempus esset, manum effigiandis literis assuefaceret; sed parum prospere successit labor præposterus ac sero inchoatus.*

‡ Spelman. Vit. Alfred. Append.

as a body to the uninstructed laity. An inconceivable cloud of ignorance overspread the whole face of the church, hardly broken by a few glimmering lights, who owe almost the whole of their distinction to the surrounding darkness. In the sixth century the best writers in Latin were scarcely read;* and perhaps from the middle of this age to the eleventh, there was, in a general view of literature, little difference to be discerned. If we look more accurately, there will appear certain gradual shades of twilight on each side of the greatest obscurity. France reached her lowest point at the beginning of the eighth century; but England was at that time more respectable, and did not fall into complete degradation, till the middle of the ninth. There could be nothing more deplorable than the state of letters in Italy and in England during the succeeding century; but France seems to have been uniformly, though very slowly, progressive from the time of Charlemagne.†

* Hist. Litteraire de la France, t. iii. p. 5.

† These four dark centuries, the eight, ninth, tenth, and eleventh, occupy five large quarto volumes of the Literary History of France by the fathers of St. Maur. But the most useful part will be found in the general view at the commencement of each volume; the remainder is taken up with biographies, into which a reader may dive at random, and sometimes bring up a curious fact.

* Tiraboschi, Storia della Letteratura, t. iii. and Muratori's forty-third Dissertation are good authorities for the condition of letters in Italy; but I cannot easily give references to all the books which I have consulted.

Of this prevailing ignorance it is easy to produce abundant testimony. Contracts were made verbally, for want of notaries capable of drawing up charters; and these, when written, were frequently barbarous and ungrammatical to an incredible degree. For some considerable intervals, scarcely any monument of literature has been preserved except a few jejune chronicles, the vilest legends of saints, or verses equally destitute of spirit and metre. In almost every council, the ignorance of the clergy forms a subject for reproach. It is asserted, by one held in 992, that scarcely a single person was to be found in Rome itself who knew the first elements of letters.* Not one priest of a thousand in Spain, about the age of Charlemagne, could address a common letter of salutation to another.† In England, Alfred declares that he could not recollect a single priest south of the Thames, (the best part of England,) at the time of his accession, who understood the ordinary prayers, or could translate Latin into his mother-tongue.‡ Nor was this better in the time of

* Tiraboschi, t. iii. p. 198.

† Mabillon, *De Re Diplomatica*, p. 55.

‡ Spelman. *Vit. Alfred. Append.* The whole drift of Alfred's preface to this translation is to defend the expediency of rendering books into English, on account of the general ignorance of Latin. The zeal which this excellent prince shows for literature is delightful. Let us endeavour he says, that all the English youth, especially the children of those who are free-born, and can educate them, may learn to read English, before they take to any employment. Afterwards, such as please may be instructed in Latin. Before the Danish invasion indeed, he tells

Dunstan, when it is said, none of the clergy knew how to write or translate a Latin letter.* The homilies which they preached were compiled for their use by some bishops, from former works of the same kind, or the writings of the fathers.

This universal ignorance was rendered unavoidable among other causes, by the scarcity of books, which could only be procured at an immense price. From the conquest of Alexandria by the Saracens at the beginning of the seventh century, when the Egyptian papyrus almost ceased to be imported into Europe, to the close of the tenth, about which time the art of making paper from cotton rags seems to have been introduced, there were no materials for writing except parchment, a substance too expensive

us, churches were well furnished with books, ; but the priests got little good from them, being written in a foreign language which they could not understand.

* Mabillon, *De Re Diplomatica*, p. 55. Ordericus Vitalis, a more candid judge of our unfortunate ancestors than other contemporary annalists, says, that the English were, at the conquest, rude, and almost illiterate, which he ascribes to the Danish invasion. Du Chesne, *Hist. Norm. Script.* p. 518. However, Ingulfus tells us, that the library of Croyland contained above three hundred volumes, till the unfortunate fire that destroyed that abbey in 1091. *Gale 15 Scriptorum*, t. i. 98. Such a library was very extraordinary in the eleventh century, and could not have been equalled for some ages afterwards. Ingulfus mentions at the same time, a nadir, as he calls it, a planetarium, executed in various metals. This had been presented to Abbot Turketul in the tenth century by a king of France, and was, I make no doubt, of Arabian, or perhaps Greek manufacture.

to be readily spared for mere purposes of literature.* Hence an unfortunate practice gained ground, of erasing a manuscript in order to substitute another on the same skin. This occasioned probably the loss of many ancient authors, who have made way for the legends of saints, or other ecclesiastical rubbish.

If we would listen to some literary historians, we should believe that the darkest ages contained many individuals, not only distinguished among their contemporaries, but positively eminent for abilities and knowledge. A proneness to extol every monk, of whose production a few letters or a devotional treatise survives, every bishop, of whom it is related that

* Parchment was so scarce, that none could be procured about 1120 for an illuminated copy of the Bible. Warton's *Hist. of English Poetry*, Dissert. II. I suppose the deficiency was of skins beautiful enough for this purpose; it cannot be meant, that there was no parchment for legal instruments.

Manuscripts written on papyrus, as may be supposed from the fragility of the material, as well as the difficulty of procuring it, are of extreme rarity. That in the British Museum, being a charter to a church at Ravenna in 572 is in every respect the most curious; and indeed both Mabillon and Muratori seem never to have seen any thing written on papyrus; though they trace its occasional use down to the eleventh or twelfth centuries. Mabillon, *De Re Diplomatica*, l. ii. Muratori, *Antichita Italiane*, Dissert. xliii. p. 602. But the authors of the *Nouveau Traite de Diplomatique* speak of several manuscripts on this material as extant in France and Italy. t. i. p. 493.

As to the general scarcity and high price of books in the middle ages, Robertson, *Introduction to Hist. Charles V.* note x, and Warton, in the above cited dissertation, not to quote authors less accessible, have collected some of the leading facts; to whom I refer the reader.

he composed homilies, runs through the laborious work of the Benedictins of St. Maur, the *Literary History of France*, and, in a less degree, is observable even in Tiraboschi, and in most books of this class. Bede, Alcuin, Hincmar, Raban, and a number of inferior names, become real giants of learning in their uncritical panegyrics. But one might justly say, that ignorance is the smallest defect of the writers of these dark ages. Several of them were tolerably acquainted with books; but that wherein they are uniformly deficient is original argument or expression. Almost every one is a compiler of scraps from the fathers, or from such semi-classical authors as Boethius, Cassiodorus, or Martianus Capella.* Indeed I am not aware that there appeared more than two really considerable men in the republic of letters, from the sixth to the middle of the eleventh century; John, surnamed Scotus or Erigena, a native of Ireland; and Gerbert, who became pope by the name of Sylvester II. : the first endowed with a bold and acute metaphysical genius; the second excellent, for the time when he lived, in mathematical science and mechanical inventions.†

* Lest I should seem to have spoken too peremptorily, I wish it to be understood, that I pretend to hardly any direct acquaintance with these writers, and found my censure on the authority of others, chiefly indeed on the admissions of those who are too disposed to fall into a strain of panegyric. See *Histoire Littéraire de la France*, t. iv. p. 281. et alibi.

† John Scotus, who, it is almost needless to say, must not be confounded with the still more famous metaphysician Duns Scotus,

If it be demanded, by what cause it happened, that a few sparks of ancient learning survived throughout this long winter, we can only ascribe their preservation to the establishment of Christianity. Religion alone made a bridge, as it were, across the chaos, and has linked the two periods of ancient and modern civilization. Without this connecting principle, Europe might indeed have awakened to intellectual pursuits, and the genius of recent times needed not to be invigorated by the imitation of antiquity. But the memory of Greece and Rome would have been feebly preserved by tradition, and the monuments of those nations might have excited, on the return of civilization, that vague sentiment of speculation and wonder with which men now contemplate Persepolis or the Pyramids. It is not, however, from religion simply that we have derived this advantage, but from religion as it was modified in the dark ages. Such is the complex reciprocation of good and evil in the dispensations of Providence, that we may assert, with only an apparent paradox, that, had religion been more pure, it would have been less permanent, and that christianity has been preserved by means of its corruptions. The sole hope for literature depended on the Latin language ;

lived under Charles the Bald, in the middle of the ninth century. Silvester II died in 1003. Whether he first brought the Arabic numeration into Europe, as has been commonly said, seems uncertain ; it was at least not practised for some centuries after his death.

and I do not see why that should not have been lost, if three circumstances in the prevailing religious system, all of which we are justly accustomed to disapprove, had not conspired to maintain it; the papal supremacy, the monastic institutions, and the use of a Latin liturgy. I. A continual intercourse was kept up in consequence of the first, between Rome and the several nations of Europe; her laws were received by the bishops, her legates presided in councils; so that a common language was as necessary in the church as it is at present in the diplomatic relations of kingdoms. II. Throughout the whole course of the middle ages, there was no learning, and very little regularity of manners, among the parochial clergy. Almost every distinguished man was either the member of a chapter or of a convent. The monasteries were subjected to strict rules of discipline, and held out, at the worst, more opportunities for study than the secular clergy possessed, and fewer for worldly dissipations. But their most important service was as secure repositories for books. All our manuscripts have been preserved in this manner, and could hardly have descended to us by any other channel; at least, there were intervals, when I do not conceive that any royal or private libraries existed. III. Monasteries, however, would probably have contributed very little towards the preservation of learning, if the Scripture and the liturgy had been translated out of Latin when that language ceased to

be intelligible. Every rational principle of religious worship called for such a change ; but it would have been made at the expence of posterity. One might presume, if such refined conjectures were consistent with historical caution, that the more learned and sagacious ecclesiastics of those times, deploring the gradual corruption of the Latin tongue, and the danger of its absolute extinction, were induced to maintain it as a sacred language, and the depositary, as it were, of that truth and that science which would be lost in the barbarous dialects of the vulgar. But a simpler explanation is found in the radical dislike of innovatiou which is natural to an established clergy. Nor did they want as good pretexts, on the ground of convenience, as are commonly alleged by the opponents of reform. They were habituated to the Latin words of the church-service, which had become, by this association, the readiest instruments of devotion, and with the majesty of which the Romance jargon could bear no comparison. Their musical chants were adapted to these sounds, and their hymns depended, for metrical effect, on the marked accents and powerful rhymes which the Latin language affords. The vulgate Latin of the Bible was still more venerable. It was like a copy of a lost original ; and a copy attested by one of the most eminent fathers, and by the general consent of the church. These are certainly no adequate excuses for keeping the people in ignorance ; and the gross corruption of

the middle ages is in a great degree assignable to this policy. But learning, and consequently religion, have eventually derived from it the utmost advantage.

In the shadows of this universal ignorance, a thousand superstitions, like foul animals of night, were propagated and nourished. It would be very unsatisfactory to exhibit a few specimens of this odious brood, when the real character of those times is only to be judged by their accumulated multitude. In every age, it would be easy to select proofs of irrational superstition, which, separately considered, seem to degrade mankind from its level in the creation; and perhaps the contemporaries of Swedenborg and Southcote have no right to look very contemptuously upon the fanaticism of their ancestors. There are many books, from which a sufficient number of instances may be collected, to shew the absurdity and ignorance of the middle ages in this respect. I shall only mention two, as affording more general evidence, than any local or obscure superstition. In the tenth century, an opinion prevailed every where, that the end of the world was approaching; many charters begin with these words: "As the world is now drawing to its close." An army marching under the emperor Otho I. was so terrified by an eclipse of the sun, which it conceived to announce this consummation, as to disperse hastily on all sides. As this notion seems to have been founded on some confused theory of the Millennium, it naturally died away, when the

seasons proceeded in the eleventh century with their usual regularity.* A far more remarkable and permanent superstition was the appeal to heaven in judicial controversies, whether through the means of combat or of ordeal. The principle of these was the same; but in the former, it was mingled with feelings independent of religion; the natural dictates of resentment in a brave man unjustly accused, and the sympathy of a warlike people with the display of skill and intrepidity. These, in course of time, almost obliterated the primary character of judicial combat, and ultimately changed it into the modern duel, in which assuredly there is no mixture of superstition.† But, in the various tests of innocence, which were called ordeals,

* Robertson, Introduction to Hist. Charles V. note 13. Schmidt. Hist. des Allemands, t. ii. p. 380. Hist. Littéraire de la France, t. vi.

† Duelling, in the modern sense of the word, exclusive of casual frays and single combats during war, was unknown before the sixteenth century. But we find one anecdote, which seems to illustrate its derivation from the judicial combat. The dukes of Lancaster and Brunswic having some differences agreed to decide them by duel before John king of France. The lists were prepared with the solemnity of a real trial by battle; but the king interfered to prevent the engagement. Villaret, t. ix. p. 71. The barbarous practice of wearing swords as a part of domestic dress, which tended very much to the frequency of duelling, was not introduced till the latter part of the fifteenth century. I can only find one print in Montfaucon's Monuments of the French monarchy where a sword is worn without armour before the reign of Charles VIII., though a few, as early as the reign of Charles VI., have short daggers in their girdles. The exception is a figure of Charles VII., t. iii. pl. 47.

this stood undisguised and unqualified. It is not necessary to describe what is so well known; the ceremonies of trial by handling hot iron, by plunging the arm into boiling fluids, by floating or sinking in cold water, or by swallowing a piece of consecrated bread. It is observable that as the interference of heaven was relied upon as a matter of course, it seems to have been reckoned nearly indifferent, whether such a test was adopted, as must, humanly considered, absolve all the guilty, or one that must convict all the innocent. The ordeals of hot iron or water were however more commonly used; and it has been a perplexing question, by what dexterity these tremendous proofs were eluded. They seem at least to have placed the decision of all judicial controversies in the hands of the clergy, who must have known the secret, whatever that might be, of satisfying the spectators that an accused person had held a mass of burning iron with impunity. For several centuries, this mode of investigation was in great repute, though not without opposition from some eminent bishops. It does discredit to the memory of Charlemagne that he was one of its warmest advocates.* But the judicial combat, which indeed might be reckoned one species of ordeal, gradually put an end to the rest; and as the church acquired better notions of law, and a code of

* Baluzii Capitularia, p. 444. It was abolished by Louis the Debonair, a man, as I have noticed in another place, not inferior, as a legislator, to his father. *ibid.* p. 668.

her own, she strenuously exerted herself against all these barbarous superstitions.*

But the religious ignorance of the middle ages sometimes burst out in ebullitions of epidemical enthusiasm, more remarkable than these superstitious usages, though proceeding in fact from similar causes. For enthusiasm is little else than superstition put in motion, and is equally founded on a strong conviction of supernatural agency without any just conceptions of its nature. Nor has any denomination of Christians produced, or even sanctioned, more fanaticism than the church of Rome.† These epidemical phrenzies,

* Ordeals were not actually abolished in France, notwithstanding the law of Louis above mentioned, so late as the eleventh century, Bouquet, t. xi. p. 430., nor in England, till the reign of Henry III. Some of the stories we read, wherein accused persons have passed triumphantly through these severe proofs, are perplexing enough; and perhaps it is safer, as well as easier, to deny than to explain them. For example, a writer in the *Archæologia*, vol. xv. p. 192. has shewn that Emma, queen of Edward the Confessor, did not perform her trial by stepping *between*, as Blackstone imagines, but *upon* nine red-hot ploughshares. But he seems not aware that the whole story is unsupported by any contemporary or even respectable testimony. A similar anecdote is related of Cune-gunda, wife of the Emperor Henry II., which probably gave rise to that of Emma. There are, however, medicaments, as is well known, that protect the skin to a certain degree against the effect of fire. This phenomenon would pass for miraculous, and form the basis of those exaggerated stories in monkish books.

† Besides the original lives of Popish saints, and especially that of St. Francis in Wadding's *Annales Minorum*, the reader will find amusement in Bishop Lavington's *Enthusiasm of Methodists and Papists compared*.

however, to which I am alluding, were merely tumultuous, though certainly fostered by the creed of perpetual miracles, which the clergy inculcated, and drawing a legitimate precedent for religious insurrection from the crusades. For these, among their other evil consequences, seem to have principally excited a wild fanaticism that did not sleep for several centuries.*

The first conspicuous appearance of it was in the reign of Philip Augustus, when the mercenary troops, dismissed from the pay of that prince and of Henry II., committed the greatest outrages in the south of France. One Durand, a carpenter, deluded, it is said, by a contrived appearance of the Virgin, put himself at the head of an army of the populace, in order to destroy these marauders. His followers were styled Brethren of the White Caps, from the linen coverings of their heads. They bound themselves not to play at dice, nor frequent taverns, to wear no affected clothing, to avoid perjury and vain swearing. After some successes over the plunderers, they went so far

* The most singular effect of this crusading spirit was witnessed in 1211, when a multitude amounting, as some say, to 90,000, chiefly composed of children, and commanded by a child, set out for the purpose of recovering the Holy Land. They came for the most part from Germany, and reached Genoa without harm. But finding there an obstacle which their imperfect knowledge of geography had not anticipated, they soon dispersed in various directions. Thirty thousand arrived at Marseilles, where part were murdered, part probably starved, and the rest sold to the Saracens. *Annali di Muratori*, A. D. 1211. Velly, *Hist. de France*, t. iv. p. 206.

as to forbid the lords to take any dues from their vassals, on pain of incurring the indignation of the brotherhood. It may easily be imagined that they were soon entirely discomfited, so that no one dared to own that he had belonged to them.*

During the captivity of St. Louis in Egypt, a more extensive and terrible ferment broke out in Flanders, and spread from thence over great part of France. An imposter declared himself commissioned by the Virgin to preach a crusade, not to the rich and noble, who, for their pride, had been rejected of God, but to the poor. His disciples were called Pastoureaux, the simplicity of shepherds having exposed them more readily to this delusion. In a short time they were swelled by the confluence of abundant streams to a moving mass of a hundred thousand men, divided into companies, with banners bearing a cross and a lamb, and commanded by the impostor's lieutenants. He assumed a priestly character, preaching, absolving, annulling marriages. At Amiens, Bourges, Orleans, and Paris itself, he was received as a divine prophet. Even the regent Blanche, for a time, was led away by the popular tide. His main topic was reproach of the clergy for their idleness and corruption, a theme well adapted to the ears of the people, who had long been uttering similar strains of complaint. In some towns his followers massacred the priests and plun-

* Velly, t. iii. p. 295. Du Cange v. Capuciata.

dered the monasteries. The government at length began to exert itself; and the public sentiment turning against the authors of so much confusion, this rabble was put to the sword or dissipated.* Seventy years afterwards, an insurrection almost exactly parallel to this burst out under the same pretence of a crusade. These insurgents too bore the name of Pastoureaux, and their short career was distinguished by a general massacre of the Jews.†

But though the contagion of fanaticism spreads much more rapidly among the populace, and in modern times is almost entirely confined to it, there were examples in the middle ages, of an epidemical religious lunacy, from which no class was exempt. One of these occurred about the year 1260, when a multitude of every rank, age and sex, marching two by two in procession along the streets and public roads, mingled groans and dolorous hymns with the sound of leathern scourges which they exercised upon their naked backs. From this mark of penitence, which, as it bears at least all the appearance of sincerity, is not uncommon in the church of Rome, they acquired the name of Flagellants. Their career began, it is said, at Perugia, from whence they spread over the

* Velly, Hist. de France, t. v. p. 7. Du Cange v. Pastorelli.

† Id. t. viii. p. 99. The continuator of Nangis says, sicut fumus sicutò evanuit tota illa commotio. Spicilegium, t. iii. p. 77. It is a curious question, why these whirlwinds of enthusiasm never arise in modern times.

rest of Italy, and into Germany and Poland. As this spontaneous fanaticism met with no encouragement from the church, and was prudently discountenanced by the civil magistrate, it died away in a very short time.* But it is more surprizing, that, after almost a century and a half of continual improvement and illumination, another irruption of popular extravagance burst out under circumstances exceedingly similar.† In the month of August 1399, says a contemporary historian, there appeared all over Italy a description of persons, called Bianchi, from the white linen vestments that they wore. They passed from province to province, and from city to city, crying out *Miseriordia!* with their faces covered and bent towards the ground, and bearing before them a great crucifix. Their constant song was: *Stabat Mater dolorosa*. This lasted three months; and whoever did not attend their processions was reputed a heretic.‡ Almost every Italian writer of the time takes notice of these Bianchi; and Muratori ascribes a remarkable reformation of manners (though certainly a very transient one) to their influence.§ Nor were they confined to Italy,

* Velly, t. v. p. 279. Du Cange, *Verberatio*.

† Something of a similar kind is mentioned by G. Villani, under the year 1310. l. v. iii. c. 122.

‡ *Annal. Mediolan.* in Murat. *Script. Rer. Ital.* t. xvi. p. 832. G. Stella. *Ann. Genuens.* t. xvii. p. 1072. *Chron. Foroliviense,* t. xix. p. 874. *Ann. Bonincontri.* t. xxi. p. 79.

§ *Dissert.* 75. Sudden transitions from profligate to austere manners were so common among individuals, that we can-

though no such meritorious exertions are imputed to them in other countries. In France, their practice of covering the face gave such opportunity to crimes as to be prohibited by the government;* and we have an act on the rolls of the first parliament of Henry IV., forbidding any one, “under pain of forfeiting all his worth, to receive the new sect in white clothes, pretending to great sanctity,” which had recently appeared in foreign parts.†

The devotion of the multitude was wrought to this feverish height by the prevailing system of the clergy. In that singular polytheism, which had been grafted on the language rather than the principles of Christianity, nothing was so conspicuous as the belief of perpetual miracles; if indeed those could properly be termed miracles, which by their constant recurrence, even upon trifling occasions, might seem within the ordinary dispensations of Providence. These superstitions arose in what are called primitive times, and are certainly no part of popery, if in that word we include any especial reference to the Roman see. But successive ages of ignorance swelled the delusion to such an enormous pitch, that it was as difficult to trace, we may say without exaggeration, the

not be surprised at their sometimes becoming in a manner national. Azarius, a chronicler of Milan, after describing the almost incredible dissoluteness of Pavia, gives an account of an instantaneous reformation wrought by the preaching of a certain friar. This was about 1360. *Script. Rer. Ital.* t. xvi. p. 375.

* Villaret, t. xii. p. 327.

† *Rot. Parl.* v. iii. p. 428.

real religion of the Gospel in the popular belief of the laity, as the real history of Charlemagne in the romance of Turpin. It must not be supposed, that these absurdities were produced, as well as nourished, by ignorance. In most cases, they were the work of deliberate imposture. Every cathedral or monastery had its tutelar saint, and every saint his legend, fabricated in order to enrich the churches under his protection, by exaggerating his virtues, his miracles, and, consequently, his power of serving those who paid liberally for his patronage.* Many of those saints were imaginary persons; sometimes a blundered inscription added a name to the calendar; and sometimes, it is said, a heathen god was surprized at the company to which he was introduced, and the rites with which he was honoured.†

It would not be consonant to the nature of the present work, to dwell upon the erroneousness of this religion; but its effect upon the moral and intellectual character of mankind was so prominent, that no one can take a philosophical view of the middle ages without attending more than is at present fashionable to their ecclesiastical history. That the exclusive worship of saints; under the guidance of

* This is confessed by the authors of *Histoire Littéraire de la France*, t. ii. p. 4. and indeed by many Catholic writers. I need not quote Mosheim, who more than confirms every word of my text.

† Middleton's Letter from Rome. If some of our eloquent countryman's positions should be disputed, there are still abundant catholic testimonies, that imaginary saints have been canonized.

an artful, though illiterate priesthood, degraded the understanding, and begot a stupid credulity and fanaticism, is sufficiently evident. But it was also so managed as to loosen the bonds of religion, and pervert the standard of morality. If these inhabitants of heaven had been represented as stern avengers, accepting no slight atonement for heavy offences, and prompt to interpose their controul over natural events for the detection and punishment of guilt, the creed, however impossible to be reconciled with experience, might have proved a salutary check upon a rude people, and would at least have had the only palliation that can be offered for a religious imposture, its political expediency. In the legends of those times, on the contrary, they appeared only as perpetual intercessors, so good natured, and so powerful, that a sinner was more emphatically foolish than he is usually represented, if he failed to secure himself against any bad consequences. For a little attention to the saints, and especially to the Virgin, with due liberality to their servants, had saved, he would be told, so many of the most atrocious delinquents, that he might equitably presume upon similar luck in his own case.

This monstrous superstition grew to its height in the twelfth century. For the advance that learning then made was by no means sufficient to counteract the vast increase of monasteries, and the opportunities which the greater cultivation of modern lan-

guages afforded for the diffusion of legendary tales. It was now too that the veneration paid to the Virgin, in early times very great, rose to an almost exclusive idolatry. It is difficult to conceive the stupid absurdity, and the disgusting profaneness of those stories, which were invented by the monks to do her honour. A few examples have been thrown into a note.*

* Le Grand d'Aussy has given us, in the fifth volume of his *Fabliaux*, several of the religious tales, by which the monks endeavoured to withdraw the people from romances of chivalry. The following specimens will abundantly confirm my assertions, which may perhaps appear harsh and extravagant to the reader.

There was a man whose occupation was highway-robbery; but whenever he set out on any such expedition, he was careful to address a prayer to the Virgin. Taken at last, he was sentenced to be hanged. While the cord was round his neck he made his usual prayer, nor was it ineffectual. The Virgin supported his feet "with her white hands," and thus kept him alive two days, to the no small surprize of the executioner, who attempted to complete his work with strokes of a sword. But the same invisible hand turned aside the weapon, and the executioner was compelled to release his victim, acknowledging the miracle. The thief retired into a monastery, which is always the termination of these deliverances.

At the monastery of St. Peter near Cologne, lived a monk perfectly dissolute and irreligious, but very devout towards the Apostle. Unluckily he died suddenly without confession. The fiends came as usual to seize his soul. St. Peter, vexed at losing so faithful a votary, besought God to admit the monk into Paradise. His prayer was refused, and though the whole body of saints, apostles, angels and martyrs, joined, at his request, to make interest, it was of no avail. In this extremity, he had recourse to the Mother of God. "Fair lady," he said, "my monk is lost if you do not interfere for him; but what is impossible for us will be but sport to you, if you please to assist us. Your son, if you but speak a word, must yield, since it is in your power to command him." The Queen Mother assented, and, followed by all the virgins, moved towards her Son. He who had himself given the precept,

Whether the superstition of these dark ages had actually passed that point, when it becomes more injurious to public morals and the welfare of society than the entire absence of all religious notions, is a very complex question, upon which I would by no means pronounce an affirmative decision. A salutary influence, breathed from the spirit of a more

Honour thy father and thy mother, no sooner saw his own parent approach, than he rose to receive her; and taking her by the hand inquired her wishes. The rest may be easily conjectured. Compare the gross stupidity, or rather the atrocious impiety of this tale, with the pure theism of the Arabian Nights, and judge whether the Deity was better worshipped at Cologne or at Bagdad.

It is unnecessary to multiply instances of this kind. In one tale, the Virgin takes the shape of a nun, who had eloped from the convent, and performs her duties ten years, till, tired of a libertine life, she returns unsuspected. This was in consideration of her having never omitted to say an Ave as she passed the Virgin's image. In another, a gentleman, in love with a handsome widow, consents, at the instigation of a sorcerer, to renounce God and the saints, but cannot be persuaded to give up the Virgin, well knowing that, if he kept her his friend, he should obtain pardon through her means. Accordingly, she inspired his mistress with so much passion, that he married her within a few days.

These tales, it may be said, were the production of ignorant men, and circulated among the populace. Certainly they would have excited contempt and indignation in the more enlightened clergy. But I am concerned with the general character of religious notions among the people; and for this it is better to take such popular compositions, adapted to what the laity already believed, than the writings of comparatively learned and reflecting men. However, stories of the same cast are frequent in the monkish historians. Matthew Paris, one of the most respectable of that class, and no friend to the covetousness or relaxed lives of the priesthood, tells us of a knight who was on the point of being damned for frequenting tournaments, but saved by a donation he had formerly made to the Virgin. p. 290.

genuine religion, often displayed itself among the corruptions of a degenerate superstition. In the original principles of monastic orders, and the rules by which they ought at least to have been governed, there was a character of meekness, self-denial, and charity, that could not wholly be effaced. These virtues, rather than justice and veracity, were inculcated by the religious ethics of the middle ages; and in the relief of indigence, it may, upon the whole, be asserted, that the monks did not fall short of their profession.* This eleemosynary spirit, indeed, remarkably distinguishes both Christianity and Mohammedism from the moral systems of Greece and Rome, which were very deficient in general humanity and sympathy with suffering. Nor do we find in any single instance during ancient times, if I mistake not, those public institutions for the alleviation of human miseries, which have long been scattered over

* I am inclined to acquiesce in this general opinion; yet an account of expenses at Bolton Abbey, about the reign of Edward II., published in Whitaker's History of Craven, p. 51., makes a very scanty shew of almsgiving in this opulent monastery. Much, however, was no doubt given in victuals. But it is a strange error to conceive that English monasteries before the dissolution fed the indigent part of the nation, and gave that general relief which the poor-laws are intended to afford.

Piers Plowman is indeed a satyrst; but he plainly charges the monks with want of charity.

Little had lordes to do to give landes from their heires,
 To religious that have no ruthe though it rain on their aultres;
 In many places there the parsons be themself at ease,
 Of the poor they have no pitie, and that is their poor charitie.

every part of Europe. The virtues of the monks assumed a still higher character, when they stood forward as protectors of the oppressed. By an established law, founded on very ancient superstition, the precincts of a church afforded sanctuary to accused persons. Under a due administration of justice, this privilege would have been simply and constantly mischievous, as we properly consider it to be in those countries where it still subsists. But in the rapine and tumult of the middle ages, the right of sanctuary might as often be a shield to innocence as an immunity to crime. We can hardly regret, in reflecting on the desolating violence which prevailed, that there should have been some green spots in the wilderness, where the feeble and the persecuted could find refuge. How must this right have enhanced the veneration for religious institutions! How gladly must the victims of internal warfare have turned their eyes from the baronial castle, the dread and scourge of the neighbourhood, to those venerable walls, within which not even the clamour of arms could be heard, to disturb the chant of holy men, and the sacred service of the altar! The protection of a sanctuary was never withheld. A son of Chilperic, king of France, having fled to that of Tours, his father threatened to ravage all the lands of the church, unless they gave him up. Gregory the historian, bishop of the city, replied in the name of his clergy, that that Christians could not be guilty of an act unheard

of among pagans. The king was as good as his word, and did not spare the estate of the church, but dared not infringe its privileges. He had indeed previously addressed a letter to St. Martin, which was laid on his tomb in the church, requesting permission to take away his son by force; but the honest saint returned no answer.*

The virtues, indeed, or supposed virtues, which had induced a credulous generation to enrich so many of the monastic orders, were not long preserved. We must reject, in the excess of our candour, all testimonies that the middle ages present, from the solemn declaration of councils, and reports of judicial inquiry, to the casual evidence of common fame in the ballad or romance, if we would extenuate the general corruption of those institutions. In vain new rules of discipline were devised, or the old corrected by reforms. Many of their worst vices grew so naturally out of their mode of life, that a stricter discipline could have no tendency to extirpate them. Such were the frauds I have already noticed, and the whole scheme of hypocritical austerities. Their extreme licentiousness was sometimes hardly concealed by the cowl of sanctity. I know not by what right we should disbelieve the reports of the visitation under Henry VIII., entering as they do into a multitude of specific charges, both probable in their nature and

* Schmidt, *Hist. des Allemands*, t. i. p. 374.

consonant to the unanimous opinion of the world.* Doubtless, there were many communities as well as individuals, to whom none of these reproaches could apply. In the very best view, however, that can be taken of monasteries, their existence is deeply injurious to the general morals of a nation. They withdraw men of pure conduct and conscientious principles from the exercise of social duties, and leave the common mass of human vice more unmixed. Such men are always inclined to form schemes of ascetic perfection, which can only be fulfilled in retirement; but, in the strict rules of monastic life, and under the influence of a grovelling superstition, their virtue lost all its usefulness. They fell implicitly into the snares of crafty priests, who made submission to the church not only the condition but the measure of all praise. He is a good Christian, says Eligius, a saint of the seventh century, who comes frequently to church; who presents an oblation that

* See Fosbrooke's *British Monachism*, vol. i. p. 127, and vol. ii. p. 8., for a farrago of evidence against the monks. Clemangis, a French theologian of considerable eminence at the beginning of the fifteenth century, speaks of nunneries in the following terms: *Quid aliud sunt hoc tempore puellarum monasteria, nisi quædam non dico Dei sanctuaria, sed Veneris execranda prostibula, sed lascivorum et impudicorum juvenum ad libidines explendas receptacula? ut idem sit hodie puellam velare, quod et publicè ad scortandum exponere.* William Prynne, from whose records, vol. ii. p. 229., I have taken this passage, quotes it on occasion of a charter of King John, banishing thirty nuns of Ambresbury into different convents, *propter vitæ suæ turpitudinem.*

it may be offered to God on the altar, who does not taste the fruits of his land till he has consecrated a part of them to God; who can repeat the Creed or the Lord's Prayer. Redeem your souls from punishment while it is in your power; offer presents and tithes to churches, light candles in holy places, as much as you can afford, come more frequently to church, implore the protection of the saints; for, if you observe these things, you may come with security at the day of judgment to say, Give unto us, Lord, for we have given unto thee.*

With such a definition of the Christian character, it is not surprizing that any fraud and injustice became honourable when it contributed to the riches of the clergy and glory of their order. Their frauds, however, were less atrocious than the savage bigotry with which they maintained their own system and infected the laity. In Saxony, Poland, Lithuania, and the countries on the Baltic Sea, a sanguinary persecution extirpated the original idolatry. The Jews were every where the objects of popular insult and oppression, frequently of a general massacre, though protected, it must be confessed, by the laws of the church, as well as, in general, by temporal princes.† Of the crusades it is only necessary to

* Mosheim, cent. vii. c. 3. Robertson has quoted this passage, to whom perhaps I am immediatety indebted for it. Hist. Charles V., vol. i. note 11.

† Mr. Turner has collected many curious facts relative to the condition of the Jews, especially in England. Hist. of

repeat that they began in a tremendous eruption of fanaticism, and ceased only because that spirit could not be constantly kept alive. A similar influence produced the devastation of Languedoc, the stakes and scaffolds of the Inquisition, and rooted in the religious theory of Europe those maxims of intolerance, which it has so slowly, and still, perhaps, so imperfectly renounced.

From no other cause are the dictates of sound reason and the moral sense of mankind more confused than by this narrow theological bigotry. For as it must often happen that men, to whom the arrogance of a prevailing faction imputes religious error, are exemplary for their performance of moral duties, these virtues gradually cease to make their proper impression, and are depreciated by the rigidly orthodox, as of little value in comparison with just opinions in speculative points. On the other hand, vices are forgiven to those who are zealous in the faith. I speak too gently, and with a view to later

England, vol. ii. p. 95. Others may be found dispersed in Velly's History of France; and many in the Spanish writers, Mariana and Zurita. The following are from Vaissette's History of Languedoc. It was the custom at Toulouse to give a blow on the face to a Jew every Easter; this was commuted in the twelfth century for a tribute. t. ii. p. 151. At Beziers another usage prevailed, that of attacking the Jews' houses with stones from Palm Sunday to Easter. No other weapon was to be used; but it generally produced bloodshed. The populace were regularly instigated to the assault by a sermon from the bishop. At length a prelate wiser than the rest abolished this ancient practice, but not without receiving a good sum from the Jews. p. 485.

times; in treating of the dark ages, it would be more correct to say, that crimes were commended. Thus, Gregory of Tours, a saint of the church, after relating a most atrocious story of Clovis, the murder of a prince whom he had previously instigated to parricide, continues the sentence; "For God daily subdued his enemies to his hand, and increased his kingdom; because he walked before him in uprightness, and did what was pleasing in his eyes."*

It is a frequent complaint of ecclesiastical writers, that the rigorous penances, imposed by the primitive canons upon delinquents, were commuted in a laxer state of discipline for less severe atonements, and ultimately indeed for money.† We must not, however, regret that the clergy should have lost the power of

* Greg. Tur. l. ii. c. 40. Of Theodebert, grandson of Clovis, the same historian says, *mugnum se et in omni bonitate præcipuum reddidit*. In the next paragraph we find a story of his having two wives, and looking so tenderly on the daughter of one of them, that her mother tossed her over a bridge into the river. l. iii. c. 25. This indeed is a trifle to the passage in the text. There are continual proofs of immorality in the monkish historians. In the history of Ramsey Abbey, one of our best documents for Anglo-Saxon times, we have an anecdote of a bishop who made a Danish nobleman drunk, that he might cheat him of an estate, which is told with much approbation. Gale, *Script. Anglic.* t. i. p. 441. Walter de Hemingford recounts with excessive delight the well-known story of the Jews who were persuaded by the captain of their vessel to walk on the sands at low water, till the rising tide drowned them; and adds that the captain was both pardoned and rewarded for it by the king, *gratiam promeruit et præmium*. This is a mistake, inasmuch as he was hanged; but it exhibits the character of the historian. Hemingford, p. 21.

† Fleury, *Troisième discours sur l'Histoire Ecclésiastique*.

compelling men to abstain fifteen years from eating meat, or to stand exposed to public derision at the gates of a church. Such implicit submissiveness could only have produced superstition and hypocrisy among the laity, and prepared the road for a tyranny not less oppressive than that of India or ancient Egypt. Indeed the two earliest instances of ecclesiastical interference with the rights of sovereigns, namely the deposition of Wamba in Spain, and that of Louis the Debonair, were founded upon this austere system of penitence. But it is true that a repentance redeemed by money, or performed by a substitute, could have no salutary effect on the sinner; and some of the modes of atonement, which the church most approved, were particularly hostile to public morals. None was so usual as pilgrimage; whether to Jerusalem or Rome, which were the great objects of devotion; or to the shrine of some national saint, a James of Compostella, a David or a Thomas Becket. This licenced vagrancy was naturally productive of dissoluteness, especially among the women. Our English ladies, in their zeal to obtain the spiritual treasures of Rome, are said to have relaxed the necessary caution about one that was in their own custody.* There is a capitulary of Charlemagne directed against itinerant penitents, who probably considered the iron chain around their necks an expiation of future as well as past offences.†

* Henry, Hist. of England, vol. ii. c. 7.

† Du Cange, v. Peregrinatio. Non sinantur vagari isti nudi

The crusades may be considered as martial pilgrimages on an enormous scale, and their influence upon general morality seems to have been altogether pernicious. Those who served under the cross would not indeed have lived very virtuously at home; but the confidence in their own merits, which the principle of such expeditions inspired, must have aggravated the ferocity and dissoluteness of their ancient habits. Several historians attest the depravation of morals which existed both among the crusaders and in the states formed out of their conquests.*

While religion had thus lost almost every quality that renders it conducive to the good order of society, the controul of human law was still less efficacious. But this part of my subject has been anticipated in other passages of the present work; and I shall only glance at the want of regular subordination, which rendered legislative and judicial edicts a dead letter, and at the incessant private warfare, rendered legitimate by the usages of most continental nations. Such hostilities, conducted, as they must usually have been, with injustice and cruelty, could not fail to produce

cum ferro, qui dicunt se datâ pœnitentiâ ire vagantes. Melius videtur, ut si aliquod inconsuetum et capitale crimen commiserint, in uno loco permaneant laborantes et servi- entes et pœnitentiam agentes, secundùm quod cononicè iis impositum sit.

* I. de Vitriaco, in *Gesta Dei per Francos*, t. i. Villani, 1. vii. c. 144.

a degree of rapacious ferocity in the general disposition of a people. And this certainly was among the characteristics of every nation for many centuries.

It is easy to infer the degradation of society during the dark ages from the state of religion and police. Certainly there are a few great land-marks of moral distinctions so deeply fixed in human nature, that no degree of rudeness can destroy, nor even any superstition remove them. Wherever an extreme corruption has, in any particular society, defaced these sacred archetypes that are given to guide and correct the sentiments of mankind, it is in the course of Providence, that the society itself should perish by internal discord, or the sword of a conqueror. In the worst ages of Europe there must have existed the seeds of social virtues, of fidelity, gratitude and disinterestedness; sufficient at least to preserve the public approbation of more elevated principles than the public conduct displayed. Without these imperishable elements, there could have been no restoration of the moral energies; nothing upon which reformed faith, revived knowledge, renewed law, could exercise their nourishing influences. But history, which reflects only the more prominent features of society, cannot exhibit the virtues that were scarcely able to struggle through the general depravation. I am aware that a tone of exaggerated declamation is at all times usual with those who lament the vices of their own

time; and writers of the middle ages are in abundant need of allowance on this score. Nor is it reasonable to found any inferences as to the general condition of society on single instances of crimes, however atrocious, especially when committed under the influence of violent passion. Such enormities are the fruit of every age, and none is to be measured by them. They make, however, a strong impression at the moment, and thus find a place in contemporary annals, from which modern writers are commonly glad to extract whatever may seem to throw light upon manners. I shall, however, abstain from producing any particular cases of dissoluteness or cruelty from the records of the middle ages, lest I should weaken a general proposition by offering an imperfect induction to support it, and shall content myself with observing, that times to which men sometimes appeal, as to a golden period, were far inferior in every moral comparison to those in which we are thrown.* One crime, as more universal and charac-

* Henry has taken pains in drawing a picture, not very favourable, of Anglo-Saxon manners. Book II. chap. 7. This perhaps is the best chapter, as the volume is the best volume, of his unequal work. His account of the Anglo-Saxons is derived in a great degree from William of Malmesbury, who does not spare them. Their civil history, indeed, and their laws speak sufficiently against the character of that people. But the Normans had little more to boast of in respect of moral correctness. Their luxurious and dissolute habits are as much noticed as their insolence; *et peccati cujusdam, ab hoc solo admodum alieni, flagrâsse infamia testantur veteres.*

teristic than others, may be particularly noticed. All writers agree in the prevalence of judicial perjury. It seems to have almost invariably escaped human punishment; and the barriers of superstition were in this, as in every other instance, too feeble to prevent the commission of crimes. Many of the proofs by ordeal were applied to witnesses, as well as those whom they accused; and undoubtedly trial by combat was preserved, in a considerable degree, on account of the difficulty experienced in securing a just cause against the perjury of witnesses. Robert, king of France, perceiving how frequently men forswore themselves upon the relics of saints, and less shocked, apparently, at the crime than at the sacrilege, caused an empty reliquary of crystal to be used, that those who touched it might incur less guilt in fact, though not in intention. Such an anecdote characterizes both the man and the times.*

Vid. Ordericus Vitalis, p. 682. Johann. Sarisburiensis Polycraticus, p. 194. Velly, Hist. de France, t. iii. p. 59. The state of manners in France under the two first races of kings, and in Italy both under the Lombards, and the subsequent dynasties, may be collected from their histories, their laws, and those miscellaneous facts which books of every description contain. Neither Velly, nor Muratori. Dissert. 23, are so satisfactory as we might desire.

* Velly, Hist. de France, t. ii. p. 335. It has been observed, that *Quid mores sine legibus?* is as just a question as that of Horace; and that bad laws must produce bad morals. The strange practice of requiring numerous compurgators to prove the innocence of an accused person had a most obvious tendency to increase perjury.

The favourite diversions of the middle ages, in the intervals of war, were those of hunting and hawking. The former must in all countries be a source of pleasure; but it seems to have been enjoyed in moderation by the Greeks and the Romans. With the northern invaders, however, it was rather a predominant appetite than an amusement; it was their pride and their ornament, the theme of their songs, the object of their laws, and the business of their lives. Falconry, unknown as a diversion to the ancients, became from the fourth century an equally delightful occupation.* From the Salic and other barbarous codes of the fifth century to the close of the period under our review, every age would furnish testimony to the ruling passion for these two species of chase, or, as they were sometimes called, the mysteries of woods and rivers. A knight seldom stirred from his house without a falcon on his wrist or a greyhound that followed him. Thus are Harold and his attendants represented, in the famous tapestry of Bayeux. And in the monuments of those who died any where but on the field of battle, it is usual to find the greyhound lying at their feet, or the bird upon their wrists. Nor are the tombs of ladies without their falcon; for this diversion, being of less danger

* Muratori, Dissert. 23. t. i. p. 306. (Italian.) Beckman's Hist. of Inventions, vol. i. p. 319. *Vie privée des Français*, t. ii. p. 1.

and fatigue than the chase, was shared by the delicate sex.*

It was impossible to repress the eagerness with which the clergy, especially after the barbarians were tempted by rich bishoprics, to take upon them the sacred functions, rushed into these secular amusements. Prohibitions of councils, however frequently repeated, produced little effect. In some instances a particular monastery obtained a dispensation. Thus that of St. Denis, in 774, represented to Charlemagne that the flesh of hunted animals was salutary for sick monks, and that their skins would serve to bind the books in the library.† Reasons equally cogent, we may presume, could not be wanting in every other case. As the bishops and abbots were perfectly feudal lords, and often did not scruple to lead their vassals into the field, it was not to be expected that they should debar themselves of an innocent pastime. It was hardly such indeed, when practised at the expense of others. Alexander III., by a letter to the clergy of Berkshire, dispenses with their keeping the arch-deacon in dogs and hawks during his visitation.‡ This season gave jovial ecclesiastics an opportunity of trying different countries. An archbishop of York, in 1321, seems to have carried a

* *Vie privée des Français*, t. i. p. 320.; t. ii. p. 11.

† *ibid.* t. i. p. 324.

‡ Rymer, t. i. p. 61.

train of two hundred persons who were maintained at the expense of the abbeys on his road, and to have hunted with a pack of hounds from parish to parish.* The third council of Lateran, in 1180, had prohibited this amusement on such journeys, and restricted bishops to a train of forty or fifty horses.†

Though hunting had ceased to be a necessary means of procuring food, it was a very convenient resource on which the wholesomeness and comfort, as well as luxury, of the table depended. Before the natural pastures were improved, and new kinds of fodder for cattle discovered, it was impossible to maintain the summer stock during the cold season. Hence a portion of it was regularly slaughtered and salted for winter provision. We may suppose, that when no alternative was offered but these salted meats, even the leanest venison was devoured with relish. There was somewhat more excuse therefore for the severity with which the lords of forests and manors preserved the beasts of chase, than if they had been considered as merely objects of sport. The laws relating to preservation of game were in every country uncommonly rigorous. They formed in England that odious system of forest-laws, which distinguished the tyranny of our Norman kings. Capi-

* Whitaker's Hist. of Craven, p. 340. and of Whalley, p. 171.

† Velly, Hist. de France, t. iii. p. 236.

tal punishment for killing a stag or wild boar was frequent, and perhaps warranted by law, until the charter of John.* The French code was less severe, but even Henry IV. enacted the pain of death against the repeated offence of chasing deer in the royal forests. The privilege of hunting was reserved to the nobility till the reign of Louis IX. who extended it in some degree to persons of lower birth.†

This excessive passion for the sports of the field produced those evils which are apt to result from it; a strenuous idleness, which disdained all useful occupations, and an oppressive spirit towards the peasantry. The devastation committed under the pretence of destroying wild animals, which had been already protected in their depredations, is noticed in serious authors, and has also been the topic of popular ballads.‡ What effect this must have had on agriculture,

* John of Salisbury inveighs against the game-laws of his age, with an odd transition from the Gospel to the Pandects. *Nec veriti sunt hominem pro unâ bestiola perdere, quem unigenitus Dei Filius sanguine redemit suo. Quæ feræ naturæ sunt, et de jure occupantium fiunt, sibi audet humana temeritas vindicare, &c. Policraticus, p. 18.*

† Le Grand, *Vie privée des Français*, t. i. p. 325.

‡ For the injuries which the people sustained from the seignorial rights of the chase, in the eleventh century, see the *Recueil des Historiens*, in the valuable preface to the eleventh volume, p. 181. This continued to be felt in France down to the revolution, to which it did not perhaps a little contribute. (See Young's *Travels in France*.) The monstrous privilege of free-warren (monstrous, I mean, when not originally founded upon the property of the soil) is recognized by our own laws, though, in this age, it is not often that a court and jury

it is easy to conjecture. The levelling of forests, the draining of morasses, and the extirpation of mischievous animals which inhabit them, are the first objects of man's labour in reclaiming the earth to his use; and these were forbidden by a landed aristocracy, whose controul over the progress of agricultural improvement was unlimited, and who had not yet learned to sacrifice their pleasures to their avarice.

These habits of the rich, and the miserable servitude of those who cultivated the land, rendered its fertility unavailing. Predial servitude indeed, in some of its modifications, has always been the great bar to improvement. In the agricultural economy of Rome, the labouring husbandman, a menial slave of some wealthy senator, had not even that qualified interest in the soil which the tenure of villenage afforded to the peasant of feudal ages. Italy, therefore, a country presenting many natural impediments, was but imperfectly reduced into cultivation before the irruption of the barbarians.* That revolution destroyed agriculture with every other art, and succeeding calamities during five or six centuries left the finest regions

will sustain its exercise. Mr. Walter Scott's ballad of the Wild Huntsman, from a German original, is well known; and, I believe there are several others in that country not dissimilar in subject.

* Muratori, Dissert. 21. This dissertation contains ample evidence of the wretched state of culture in Italy, at least in the northern parts, both before the irruption of the barbarians, and, in a much greater degree, under the Lombard kings.

of Europe unfruitful and desolate. There are but two possible modes in which the produce of the earth can be increased; one by rendering fresh land serviceable; the other, by improving the fertility of that which is already cultivated. The last is only attainable by the application of capital and of skill to agriculture; neither of which could be expected in the ruder ages of society. The former is, to a certain extent, always practicable while waste lands remain; but it was checked by laws hostile to improvement, such as the manerial and commonable rights in England, and by the general tone of manners.

Till the reign of Charlemagne there were no towns in Germany, except a few that had been erected on the Rhine and Danube by the Romans. A house with its stables and farm-buildings, surrounded by a hedge or inclosure, was called a court, or, as we find it in our law-books, a curtilage; the toft or homestead of a more genuine English dialect. One of these with the adjacent domain of arable fields and woods, had the name of a villa or manse. Several manses composed a march; and several marches formed a pagus, or district.* From these elements, in the progress

* Schmidt. *Hist. des Allem.* t. i. p. 408. The following passage seems to illustrate Schmidt's account of German villages, in the ninth century, though relating to a different age and country. "A toft," says Dr. Whitaker, "is a homestead in a village, so called from the small tufts of maple, elm, ash and other wood, with which dwelling-houses were anciently over-hung. Even now it is impossible to enter Cra-

of population, arose villages and towns. In France undoubtedly there were always cities of some importance. Country parishes contained several manses or farms of arable land, around a common pasture, where every one was bound by custom to feed his cattle.*

The condition even of internal trade was hardly preferable to that of agriculture. There is not a vestige perhaps to be discovered for several centuries of any considerable manufacture; I mean, of working up articles of common utility to an extent beyond what the necessities of an adjacent district required.† Rich men kept domestic artisans among their servants; even kings, in the ninth century, had their clothes made by the women upon their farms;‡ but the peasantry must have been supplied with garments

ven without being struck with the insulated homesteads, surrounded by their little garths, and over-hung with tufts of trees. These are the genuine tofts and crofts of our ancestors, with the substitution only of stone to the wooden crocks and thatched roofs of antiquity." *Hist. of Craven.* p. 380.

* It is laid down in the *Speculum Saxonicum*, a collection of feudal customs which prevailed over most of Germany, that no one might have a separate pasture for his cattle, unless he possessed three mansi. *Du Cange, Mansus.* There seems to have been a price paid, I suppose to the lord, for agistment in the common pasture.

† The only mention of a manufacture, as early as the ninth or tenth centuries, that I remember to have met with, is in *Schmidt*, t. ii. p. 146. who says that cloths were exported from *Friseland* to England and other parts. He quotes no authority, but has not advanced the fact, I am satisfied, gratuitously.

‡ *Schmidt*, t. i. p. 411.; t. ii. p. 146.

and implements of labour by purchase, and every town, it cannot be doubted, had its weaver, its smith, and its currier. But there were almost insuperable impediments to any extended traffic; the insecurity of moveable wealth, and difficulty of accumulating it; the ignorance of mutual wants; the peril of robbery in conveying merchandize, and the certainty of extortion. In the domains of every lord, a toll was to be paid in passing his bridge, or along his highway, or at his market.* These customs, equitable and necessary in their principle, became in practice oppressive, because they were arbitrary, and renewed in every petty territory which the road might intersect. Several of Charlemagne's capitularies repeat complaints of these exactions, and endeavour to abolish such tolls as were not founded on prescription.† One of them rather amusingly illustrates the modesty and moderation of the land-holders. It is enacted that no one shall be compelled to go out of his way in order to pay toll at a particular bridge, when he can cross the river more conveniently at another place.‡ These provisions, like most others of that age, were unlikely to produce much amendment. It was only the milder

* Du Cange, *Pedagium, Pontaticum, Teloneum, Mercatum, Stallagium, Lastagium, &c.*

† Baluz. *Capit.* p. 621. and alibi.

‡ *Ut nullus cogatur ad pontem ire ad fluvium transeundum propter telonei causas quando ille in alio loco compendiosius illud flumen transire potest.* p. 764. et alibi.

species, however, of feudal lords who were content with the tribute of merchants. The more ravenous descended from their fortresses to pillage the wealthy traveller, or shared in the spoil of inferior plunderers, whom they both protected and instigated. Proofs occur, even in the later periods of the middle ages, when government had regained its energy, and civilization had made considerable progress, of public robberies systematically perpetrated by men of noble rank. In the more savage times, before the twelfth century, they were probably too frequent to excite much attention. It was a custom in some places to way-lay travellers, and not only to plunder, but to sell them as slaves, or compel them to pay a ransom. Harold son of Godwin, having been wrecked on the coast of Ponthieu, was imprisoned by the lord, says an historian, according to the custom of that territory.* Germany appears to have been, upon the whole, the country where downright robbery was most unscrupulously practised by the great. Their castles, erected on almost inaccessible heights among the woods, became the secure receptacles of predatory bands, who spread terror over the country. From these barbarian lords of the dark ages, as from a living model, the romancers are said to have drawn their giants and other disloyal enemies of true chivalry. Robbery in-

* Eadmer, apud *Recueil des Historiens des Gaules*, t. xi. preface, p. 192. Pro ritu illius loci, a domino terræ captivitati addicitur.

deed is the constant theme both of the Capitularies and of the Anglo-Saxon laws; one has more reason to wonder at the intrepid thirst of lucre, which induced a very few merchants to exchange the products of different regions, than to ask why no general spirit of commercial activity prevailed.

Under all these circumstances, it is obvious that very little of oriental trade could have existed in these western countries of Europe. Destitute as they have been created, speaking comparatively, of natural productions fit for exportation, their invention and industry are the great resources from which they can supply the demands of the east. Before any manufactures were established in Europe, her commercial intercourse with Egypt and Asia must of necessity have been very trifling; because, whatever inclination she might feel to enjoy the luxuries of those genial regions, she wanted the means of obtaining them. It is not therefore necessary to rest the miserable condition of oriental commerce upon the Saracen conquests, because the poverty of Europe is an adequate cause; and, in fact, what little traffic remained was carried on with no material inconvenience through the channel of Constantinople. Venice took the lead in trading with Greece and more eastern countries.* Amalfi had the second

* Heeren has frequently referred to a work published in 1789, by Marini, intitled, *Storia civile e politica del Commercio de' Veneziani*, which casts a new light upon the early relations of Venice with the east. Of this book I know nothing; but a memoir by Guignes, in the thirty-seventh volume of the

place in the commerce of those dark ages. These cities imported, besides natural productions, the fine cloths of Constantinople; yet as this traffic seems to have been illicit, it was not probably extensive.* Their exports were gold and silver, by which, as none was likely to return, the circulating money of Europe was probably less in the eleventh century than at the subversion of the Roman empire; furs, which were obtained from the Sclavonian countries; and arms, the sale of which to pagans or Saracens was vainly prohibited by Charlemagne and by the Holy See.† A more scandalous traffic, and one that still more fitly called for prohibitory laws, was carried on in slaves. It is an humiliating proof of the degradation of Christendom, that the Venetians were reduced to purchase the luxuries of Asia, by supplying the slave-market of the Saracens.‡ Their apo-

Academy of Inscriptions, on the commerce of France with the east before the crusades, is singularly unproductive; the fault of the subject, not of the author.

* There is an odd passage in Luitprand's relation of his embassy from the Emperor Otho to Nicephorus Phocas. The Greeks making a display of their dress, he told them that in Lombardy the common people wore as good clothes as they. How, they said, can you procure them? Through the Venetian and Amalfitan dealers, he replied, who gain their subsistence by selling them to us. The foolish Greeks were very angry, and declared that any dealer presuming to export their fine clothes should be flogged. Luitprandi Opera, p. 155. edit. Antwerp 1640.

† Baluz. Capitul. p. 775. One of the main advantages which the Christian nations possessed over the Saracens was the coat of mail, and other defensive armour; so that this prohibition was founded upon very good political reasons.

‡ Schmidt, Hist. des Allem. t. ii. p. 146. Heeren, sur l'In-

logy would perhaps have been, that these were purchased from their heathen neighbours; but a slave-dealer was probably not very inquisitive as to the faith or origin of his victim. This trade was not peculiar to Venice. In England it was very common, even after the conquest, to export slaves to Ireland; till, in the reign of Henry II., the Irish came to a non-importation agreement which put a stop to the practice.*

From this state of degradation and poverty, all the countries of Europe have recovered, with a progression in some respects tolerably uniform, in others more unequal; and the course of their improvement, more gradual, and less dependent upon conspicuous

fluence des Croisades, p. 316. In Baluze, we find a law of Carloman, brother of Charlemagne; *Ut mancipia Christiana paganis non vendantur*. *Capitularia*, t. i. p. 150. vide quoque p. 351.

* William of Malmesbury accuses the Anglo-Saxon nobility of selling their female servants, even when pregnant by them, as slaves to foreigners, p. 102. I hope there were not many of these Yaricoes; and should not perhaps have given credit to an historian, rather prejudiced against the English, if I had not found too much authority for the general practice. In the canons of a council at London in 1102, we read: Let no one from henceforth presume to carry on that wicked traffic, by which men in England have hitherto been sold like brute animals. *Wilkins's Concilia*, t. i. p. 383. And Giraldus Cambrensis says that the English before the conquest were generally in the habit of selling their children and other relations to be slaves in Ireland, without having even the pretext of distress or famine, till the Irish, in a national synod, agreed to emancipate all the English slaves in the kingdom. *id.* p. 471. This seems to have been designed to take away all pretext for the threatening invasion of Henry II. *Lytton*, vol. iii. p. 70.

civil revolutions than their decline, affords one of the most interesting subjects into which a philosophical mind can inquire. The commencement of this restoration has usually been dated from about the close of the eleventh century; though it is unnecessary to observe, that the subject does not admit of any thing approximating to chronological accuracy. It may therefore be sometimes not improper to distinguish the six first of the ten centuries which the present work embraces, under the appellation of the *dark ages*; an epithet which I do not extend to the twelfth and three following. In tracing the decline of society from the subversion of the Roman empire, we have been led, not without connexion, from ignorance to superstition, from superstition to vice and lawlessness, and from thence to general rudeness and poverty. I shall pursue an inverted order in passing along the ascending scale, and class the various improvements which took place between the twelfth and fifteenth centuries, under three principal heads, as they relate to the wealth, the manners, or the taste and learning of Europe. Different arrangements might probably be suggested, equally natural and convenient; but in the disposition of topics that have not always an unbroken connexion with each other, no method can be prescribed as absolutely more scientific than the rest. That which I have adopted appears to me as philosophical and as little liable to transitions as any other.

PART II.

Progress of Commercial Improvement in Germany, Flanders, and England—In the North of Europe—In the Countries upon the Mediterranean Sea—Maritime Laws—Usury—Banking Companies—Progress of Refinement in Manners—Domestic Architecture—Ecclesiastical Architecture—State of Agriculture in England—Value of Money—Improvement of the Moral Character of Society—its Causes—Police—Changes in Religious Opinion—Various Sects—Chivalry—its Progress, Character, and Influence—Causes of the Intellectual Improvement of European Society—1. The Study of Civil Law—2. Institution of Universities—their Celebrity—Scholastic Philosophy—3. Cultivation of Modern Languages—Provençal Poets—Norman Poets—French Prose Writers—Italian—early Poets in that Language—Dante—Petrarch—English Language—its Progress—Chaucer—4. Revival of Classical Learning—Latin Writers of the Twelfth Century—Literature of the Fourteenth Century—Greek Literature—its Restoration in Italy—Invention of Printing.

THE geographical position of Europe naturally divides its maritime commerce into two principal regions; one comprehending those countries which border on the Baltic, the German and the Atlantic oceans; another, those situated around the Mediterranean sea. During the four centuries which preceded the discovery of America, and especially the two former of them, this separation was more remarkable than at present, inasmuch as their intercourse, either by land or sea, was extremely limited.

To the first region belonged the Netherlands, the coasts of France, Germany, and Scandinavia, and the maritime districts of England. In the second, we may class the provinces of Valencia and Catalonia, those of Provence and Languedoc, and the whole of Italy.

1. The former, or northern division, was first animated by the woollen manufacture of Flanders. It is not easy either to discover the early beginnings of this, or to account for its rapid advancement. The fertility of that province, and its facilities of interior navigation, were doubtless necessary causes; but there must have been some temporary encouragement from the personal character of its sovereigns, or other accidental circumstances. Several testimonies to the flourishing condition of Flemish manufactures occur in the twelfth century, and some might perhaps be found even earlier.* A writer of the thirteenth asserts, that all the world was clothed from English wool wrought in Flanders.† This indeed is an exaggerated vaunt; but the Flemish stuffs were probably sold wherever the sea or a navigable river permitted them to be carried. Cologne was the chief trading city upon the Rhine; and its merchants,

* Macpherson's *Annals of Commerce*, vol. i. p. 270. Meyer ascribes the origin of Flemish trade to Baldwin, count of Flanders in 958, who established markets at Bruges and other cities. Exchanges were in that age, he says, chiefly effected by barter, little money circulating in Flanders. *Annales Flandrici*, fol. 18. (edit. 1561.)

† Matthew Westmonast. apud Macpherson's *Annals of Commerce*, vol. i. p. 415.

who had been considerable, even under the Emperor Henry IV., established a factory at London in 1220. The woollen manufacture, notwithstanding frequent wars and the impolitic regulations of magistrates,* continued to flourish in the Netherlands, (for Brabant and Hainault shared it in some degree with Flanders,) until England became not only capable of supplying her own demand, but a rival in all the marts of Europe. All Christian kingdoms, and even the Turks themselves, says an historian of the sixteenth century, lamented the desperate war between the Flemish cities and their count Louis, that broke out in 1380. For at that time Flanders was a market for the traders of all the world. Merchants from seventeen kingdoms had their settled domiciles at Bruges, besides strangers from almost unknown countries, who repaired thither.† During this war, and on all other occasions, the weavers both of Ghent

* Such regulations scared away those Flemish weavers who brought their art into England under Edward III. Macpherson, p. 467. 494. 546. Several years later, the magistrates of Ghent are said by Meyer, (*Annales Flandrici*, fol. 156.) to have imposed a tax on every loom. Though the seditious spirit of the weavers' company had perhaps justly provoked them, such a tax on their staple manufacture was a piece of madness, when English goods were just coming into competition.

† *Terrâ marique mercatura, rerumque commercia et quæstus peribant. Non solum totius Europæ mercatores, verum etiam ipsi Turcæ aliæque sepositæ nationes ob bellum istud Flandriæ magno afficiebantur dolore. Erat nempe Flandria totius prope orbis stabile mercatoribus emporium. Septemdecim regnorum negotiatores tum Brugis sua certa habuere domicilia ac sedes, præter complures incognitas pæne gentes quæ undique confluebant.* Meyer, fol. 205. ad ann. 1385.

and Bruges, distinguished themselves by a democratical spirit, the consequence no doubt of their numbers and prosperity.* Ghent was one of the largest cities in Europe, and in the opinion of many, the best situated.† But Bruges, though in circuit but half the former, was more splendid in its buildings, and the seat of far more trade; being the great staple both for Mediterranean and northern merchandize.‡ Antwerp, which early in the sixteenth century drew away a large part of this commerce from Bruges, was not considerable in the preceding ages; nor were the towns of Zealand and Holland much noted except for their fisheries, though those provinces acquired in the fifteenth century some share of the woollen manufacture.

For the two first centuries after the conquest, our English towns, as has been observed in a different place, made some forward steps towards improvement, though still very inferior to those of the continent. Their commerce was almost confined to the exportation of wool, the great staple commodity of

* Meyer, Froissart, Comines.

† It contained, according to Ludovico Guicciardini, 35,000 houses, and the circuit of its walls was 45,640 Roman feet. *Description des Païs Bas*, p. 350, &c. (edit. 1609.) Part of this vast inclosure was not built upon. The population of Ghent is not conjectured by Guicciardini, and in his time it must have greatly declined. It is exaggerated by earlier writers, but considering the great armies that issued from that city, and its dimensions, I should suppose it must have contained at least 150,000 souls in the fourteenth century.

‡ Guicciardini, p. 362. *Mém. de Comines*, l. v. c. 67. Meyer, fol. 354. *Macpherson's Annals of Commerce*, vol. i. p. 647. 651.

England, upon which, more than any other, in its raw or manufactured state, our wealth has been founded. A woollen manufacture, however, indisputably existed under Henry II. ;* it is noticed in regulations of Richard I. ; and by the importation of woad under John, it may be inferred to have still flourished. The disturbances of the next reign, perhaps, or the rapid elevation of the Flemish towns, retarded its growth; though a remarkable law was passed by the Oxford parliament in 1261, prohibiting the export of wool, and the importation of cloth. This, while it shews the deference paid by the discontented barons who predominated in that parliament, to their confederates the burghers, was evidently too premature to be enforced. We may infer from it, however, that cloths were made at home, though not sufficiently for the people's consumption. †

Prohibitions of the same nature, though with a different object, were frequently imposed on the trade between England and Flanders by Edward I. and his son. As their political connexions fluctuated, these princes gave full liberty and settlement to the Fle-

* Blomefield, the historian of Norfolk, thinks that a colony of Flemings settled as early as this reign at Worsted, a village in that county, and immortalized its name by their manufacture. It soon reached Norwich, though not conspicuous till the reign of Edward I. *Hist. of Norfolk*, vol. ii. Macpherson speaks of it for the first time in 1327. There were, however, several guilds of weavers in the time of Henry II. *Lyttleton*, vol. ii. p. 174.

† Macpherson's *Annals of Commerce*, vol. i. p. 412. from Walter Hemingford. I am considerably indebted to this laborious and useful publication, which has superseded that of Anderson.

mish merchants, or banished them at once from the country.* Nothing could be more injurious to England than this arbitrary vacillation, which, I think, proves Edward I. to have been a less wise and enlightened sovereign than he has been esteemed. The Flemings were in every respect our natural allies; but besides those connexions with France, the constant enemy of Flanders, into which both the Edwards occasionally fell, a mutual alienation had been produced by the trade of the former people with Scotland, a trade too lucrative to be resigned at the king of England's request.† An early instance of that conflicting selfishness of belligerents and neutrals, which was destined to aggravate the animosities and misfortunes of our own time ††

A more prosperous æra began with Edward III., the father, as he may almost be called, of English commerce, a title, not indeed more glorious, but by which he may at least claim more of our gratitude than as the hero of Cressy. In 1331, he took advantage of discontents among the manufacturers of Flanders, to invite them as settlers into his dominions.§

* Rymer, t. ii. pp. 32. 50. 737. 949. 965.; t. iii. pp. 533. 1106. et alibi.

† Rymer, t. iii. p. 759. A Flemish factory was established at Berwick about 1286. Macpherson.

‡ In 1295, Edward I. made masters of neutral ships in English ports find security not to trade with France. Rymer, t. ii. p. 679.

§ Rymer, t. iv. p. 491, &c. Fuller draws a notable picture of the inducements held out to the Flemings. "Here they should feed on fat beef and mutton, till nothing but their fulness should stint their stomachs: their beds should be good

They brought the finer manufacture of woollen cloths which had been unknown in England. The discontents alluded to resulted from the monopolizing spirit of their corporations, who oppressed all artisans without the pale of their community. The history of corporations brings home to our minds one cardinal truth, that political institutions have very frequently but a relative and temporary usefulness, and that what forwarded improvement during one part of its course, may prove to it in time a most pernicious obstacle. Corporations in England, we may be sure, wanted nothing of their usual character; and it cost Edward no little trouble to protect his colonists from their selfishness, and from the blind nationality of the vulgar.* The emigration of Flemish weavers into England continued during this reign, and we find it mentioned, at intervals, for more than a century.

Commerce now became, next to liberty, the leading object of parliament. Far the greater part of our statutes from the accession of Edward III. bear relation to this subject; not always well devised, or liberal, or consistent, but by no means worse in those respects than such as have been enacted in subsequent ages. The legislators were often guided by vague notions of public advantage, or by the selfish views

and their bed-fellows better, seeing the richest yeomen in England would not disdain to marry their daughters unto them, and such the English beauties, that the most envious foreigners could not but commend them." Fuller's Church History, quoted in Blomefield's Hist. of Norfolk.

* Rymer, t. v. p. 137. 430. 540.

of private merchants ; but they were at least not behind-hand with the nation; they did not retain or create laws, that an enlightened philosophy had exploded, and that themselves were ashamed individually to defend. The occupation of a merchant became honourable; and notwithstanding the natural jealousy of the two classes, he was placed in some measure on a footing with landed proprietors. By the statute of apparel, in 37 Edw. III., merchants and artificers who had five hundred pounds value in goods and chattels might use the same dress as squires of one hundred pounds a year. And those who were worth more than this, might dress like men of double that estate. Wool was still the principal article of export, and source of revenue. Subsidies granted by every parliament upon this article were, on account of the scarcity of money, commonly taken in kind. To prevent evasion of this duty seems to have been the principle of those multifarious regulations, which fix the staple, or market for wool, in certain towns, either in England, or, more commonly, on the continent. To these all wool was to be carried, and the tax was there collected. It is not easy, however, to comprehend the drift of all the provisions relating to the staple, many of which tend to benefit foreign at the expense of English merchants. By degrees, the exportation of woollen cloths increased so as to diminish that of the raw material, but the latter was not absolutely prohibited during the period under review ;* although some restrictions were imposed

* In 1409, woollen cloths formed great part of our exports,

upon it by Edward IV. For a much earlier statute, in the 11th of Edward III., making the exportation of wool a capital felony, was in its terms provisional, until it should be otherwise ordered by the council ; and the king almost immediately set it aside.*

and were extensively used over Spain and Italy. And in 1449, English cloths having been prohibited by the Duke of Burgundy, it was enacted, that, until he should repeal this ordinance, no merchandize of his dominions should be admitted into England. 27 H. VI. c. 1. The system of prohibiting the import of foreign wrought goods was acted upon very extensively in Edward IV.'s reign.

* Stat. 11 E. III. c. 1. Blackstone says that transporting wool out of the kingdom, to the detriment of our staple manufacture, was forbidden at common law, (vol. iv. c. 12.) not recollecting, that we had no staple manufactures in the ages when the common law was formed, and that the export of wool was almost the only means by which this country procured silver, or any other article of which it stood in need, from the continent. In fact, the land-holders were so far from neglecting this source of their wealth, that a minimum was fixed upon it, by a statute of 1343 (repealed indeed the next year, 18 E. III. c. 3.) below which price it was not to be sold; from a laudable apprehension, as it seems, that foreigners were getting it too cheap. And this was revived in the 32d of H. VI. though the act is not printed among the statutes. Rot. Parl. t. v. p. 275. The exportation of sheep was prohibited in 1338. Rymer, t. v. p. 36.; and by act of parliament in 1425. 3 H. VI. c. 2. But this did not prevent our improving the wool of a foreign country to our own loss. It is worthy of notice, that English wool was superior to any other for fineness during these ages. Henry II., in his patent to the Weavers' Company, directs that if any weaver mingled Spanish wool with English, it should be burned by the lord mayor. Macpherson, p. 382. An English flock transported into Spain about 1348, is said to have been the source of the fine Spanish wool. *ibid.* p. 539. But the superiority of English wool, even as late as 1438, is proved by the laws of Barcelona, forbidding its adulteration. p. 654. Another exportation of English sheep to Spain took place about 1465, in consequence of a commercial treaty. Rymer, t. ii. p. 534. et alibi. In return, Spain-

A manufacturing district, as we see in our own country, sends out, as it were, suckers into all its neighbourhood. Accordingly, the woollen manufacture spread from Flanders along the banks of the Rhine, and into the northern provinces of France.* I am not, however, prepared to trace its history into these regions. In Germany, the privileges conceded by Henry V. to the free cities, and especially to their artisans, gave a soul to industry; though the central parts of the empire were, for many reasons, very ill calculated for commercial enterprize during the middle ages.† But the French towns were never so much emancipated from arbitrary power as those of Germany or Flanders; and the evils of exorbitant taxation, with those produced by the English wars, conspired to retard the advance of manufactures in France. That of linen made some little progress; but this work was still perhaps chiefly confined to the labour of female servants.‡

supplied England with horses, her breed of which was reckoned the best in Europe; so that the exchange was tolerably fair. Macpherson, p. 596. The best horses had been very dear in England, being imported from Spain and Italy. *ibid.*

* Schmidt, t. iv. p. 18.

† Considerable woollen manufactures appear to have existed in Picardy about 1315. Macpherson *ad annum*. Capmany, t. iii. part 2. p. 151.

‡ The sheriffs of Wiltshire and Sussex are directed, in 1253, to purchase for the king 1000 ells of fine linen, *lineæ telæ pulchræ et delicatæ*. This Macpherson supposes to be of domestic manufacture, which, however, is not demonstrable. Linen was made at that time in Flanders; and as late as 1417, the fine linen used in England was imported from France and the Low Countries. Macpherson, from Rymer, t. ix. p. 334. Velly's history is defective in giving no account of French

The manufactures of Flanders and England found a market, not only in these adjacent countries, but in a part of Europe, which for many ages had only been known enough to be dreaded. In the middle of the eleventh century, a native of Bremen and a writer much superior to most others of his time, was almost entirely ignorant of the geography of the Baltic; doubting whether any one had reached Russia by that sea, and reckoning Esthonia and Courland among its islands.* But in one hundred years more, the maritime regions of Mecklenburg and Pomerania, inhabited by a tribe of heathen Slavonians, were subdued by some German princes; and the Teutonic order some time afterwards, having conquered Prussia, extended a line of at least comparative civilization as far as the gulf of Finland. The first town erected on the coasts of the Baltic was Lubec, which owes its foundation to Adolphus, count of Holstein, in 1140. After several vicissitudes, it became independent of any sovereign but the emperor in the thirteenth century. Hamburgh and Bremen, upon the other side of the Cimbric peninsula, emulated the prosperity of Lubec; the former city purchased independence of its bishop in 1225. A colony from Bremen founded Riga in Livonia, about 1192. The city of Dantzic grew into importance about the end of the following century. Konigsberg was founded by Ottocar king of Bohemia in the same age.

commerce and manufactures, or at least none that is at all satisfactory.

* Adam Bremensis de Situ Daniæ, p. 13. (Elzevir edit.)

But the real importance of these cities is to be dated from their famous union into the Hanseatic confederacy. The origin of this is rather obscure, but it may certainly be nearly referred in point of time to the middle of the thirteenth century,* and accounted for by the necessity of mutual defence, which piracy by sea and pillage by land had taught the merchants of Germany. The nobles endeavoured to obstruct the formation of this league, which indeed was in great measure designed to withstand their exactions. It powerfully maintained the influence which the free imperial cities were at this time acquiring. Eighty of the most considerable places constituted the Hanseatic confederacy, divided into four colleges, whereof Lubec, Cologne, Brunswic and Dantzic were the leading towns. Lubec held the chief rank, and became, as it were, the patriarchal see of the league; whose province it was to preside in all general discussions for mercantile, political, or military purposes, and to carry them into execution. The league had four principal factories in foreign parts; at London, Bruges, Bergen and Novogorod, endowed by the sovereigns of those cities with considerable privileges, to which every merchant belonging to a Hanseatic town was entitled.† In England the German guildhall or factory was established

* Schmidt, t. iv. p. 8. Macpherson, p. 392. The latter writer thinks they were not known by the name of Hanse so early.

† Pfeffel, t. i. p. 443. Schmidt, t. iv. p. 18.; t. v. p. 512. Macpherson's Annals, vol. i. p. 693.

by concession of Henry III.; and in later periods, the Hanse traders were favoured above any others in the capricious vacillations of our mercantile policy.* The English had their factories on the Baltic coast as far as Prussia, and in the dominions of Denmark.†

This opening of a northern market powerfully accelerated the growth of our own commercial opulence, especially after the woollen manufacture had begun to thrive. From about the middle of the fourteenth century, we find continual evidences of a rapid increase of wealth. Thus, in 1363, Picard, who had been lord mayor some years before, entertained Edward III., and the Black Prince, the kings of France, Scotland and Cyprus, with many of the nobility, at his own house in the Vintry, and presented them with handsome gifts.‡ Philpot, another eminent citizen, in Richard II.'s time, when the trade of England was considerably annoyed by privateers, hired 1000 armed men, and dispatched them to sea, where they took fifteen Spanish vessels with their prizes.§ We find Richard obtaining a great deal from private merchants and trading towns. In 1379, he got 5000*l.* of London, 1000 marks of Bristol, and in proportion from smaller places. In 1386, London gave 4000*l.* more, and 10,000 marks in 1397.|| The

* Macpherson, vol. i. passim.

† Rymer, t. viii. p. 360.

‡ Macpherson (who quotes Stow,) p. 415.

§ Walsingham, p. 211.

|| Rymer, t. vii. p. 210. 341.; t. viii. p. 9.

latter sum was obtained also for the coronation of Henry VI.* Nor were the contributions of individuals contemptible, considering the high value of money, and the want of representative currency. Hinde, a citizen of London, lent to Henry IV. 2000*l.* in 1407, and Whittington one half of that sum. The merchants of the staple advanced 4000*l.* at the same time.† Our commerce continued to be regularly and rapidly progressive during the fifteenth century. The famous Canynges of Bristol, under Henry VI. and Edward IV., had ships of 900 tons burthen.* The trade and even the internal wealth of England reached so much higher a pitch in the reign of the last mentioned king than at any former period, that we may perceive the wars of York and Lancaster to have produced no very serious effect on national prosperity. Some battles were doubtless sanguinary; but the loss of lives in battle is soon repaired by a flourishing nation; and the devastation occasioned by armies was both partial and transitory.

A commercial intercourse between these northern and southern regions of Europe began about the early part of the fourteenth century, or, at most, a little sooner. Until indeed the use of the magnet was thoroughly understood, and a competent skill in marine architecture, as well as navigation, acquired, the Italian merchants were scarce likely to attempt a voyage perilous in itself, and rendered more formidable by the imaginary difficulties which had been

* Rymer, t. x. p. 461.

† Rymer, t. viii. p. 488.

‡ Macpherson, p. 667.

supposed to attend an expedition beyond the straits of Hercules. But the English, accustomed to their own rough seas, were always more intrepid, and probably more skilful navigators. Though it was extremely rare even in the fifteenth century for an English trading vessel to appear in the Mediterranean,* yet a famous military armament, that destined for the crusade of Richard I., displayed at a very early time the seamanship of our countrymen. In the reign of Edward II., we find mention in Rymer's collection of Genoese ships trading to Flanders and England. His son was very solicitous to preserve

* Richard III., in 1485, appointed a Florentine merchant to be English consul at Pisa, on the ground that some of his subjects intended to trade to Italy. Macpherson, p. 705, from Rymer. Perhaps we cannot positively prove the existence of a Mediterranean trade at an earlier time; and even this instrument is not conclusive. But a considerable presumption arises from two documents in Rymer, of the year 1412, which inform us of a great shipment of wool and other goods made by some merchants of London for the Mediterranean, under supercargoes, whom, it being a new undertaking, the king expressly recommended to the Genoese republic. But that people, impelled probably by commercial jealousy, seized the vessels and their cargoes: which induced the king to grant the owners letters of reprisal against all Genoese property. Rymer, t. viii. p. 717, 773. Though it is not perhaps evident that the vessels were English, the circumstances render it highly probable. The bad success, however, of this attempt might prevent its imitation. A Greek author about the beginning of the fifteenth century reckons the *Ιγγληνοι* among the nations who traded to a port in the Archipelago. Gibbon, vol. xii. p. 52. But these enumerations are generally swelled by vanity or the love of exaggeration; and a few English sailors on board a foreign vessel would justify the assertion. Benjamin of Tudela, a Jewish traveller, pretends that the port of Alexandria, about 1160, contained vessels not only from England, but from Russia, and even *Cracow*. Harris's *Voyages*, vol. i. p. 554.

the friendship of that opulent republic; and it is by his letters to the senate, or by royal orders restoring ships unjustly seized, that we come by a knowledge of those facts, which historians neglect to relate. Pisa shared a little in this traffic, and Venice more considerably; but Genoa was beyond all competition at the head of Italian commerce in these seas, during the fourteenth century. In the next, her general decline left it more open to her rival; but I doubt whether Venice ever maintained so strong a connexion with England. Through London, and Bruges, their chief station in Flanders, the merchants of Italy and of Spain transported oriental produce to the farthest parts of the north. The inhabitants of the Baltic coasts were stimulated by the desire of precious luxuries which they had never known; and these wants, though selfish and frivolous, are the means by which nations acquire civility, and the earth is rendered fruitful of its produce. As the carriers of this trade, the Hanseatic merchants resident in England and Flanders derived profits by which eventually of course those countries were enriched. It seems that the Italian vessels unloaded at the marts of London or Bruges, and that such part of their cargoes as were intended for a more northern trade came there into the hands of the German merchants. In the reign of Henry VI., England carried on a pretty extensive traffic with the countries around the Mediterranean, for whose commodities her wool and woollen cloths enabled her to pay.

The commerce of the southern division, though it did not, I think, produce more extensively beneficial effects upon the progress of society, was both earlier and more splendid than that of England, and the neighbouring countries. Besides Venice, which has been mentioned already, Amalfi kept up the commercial intercourse of Christendom with the Saracen countries before the first crusade.* It was the singular fate of this city to have filled up the interval between two periods of civilization, in neither of which she was destined to be distinguished. Scarcely known before the end of the sixth century, Amalfi ran a brilliant but short career, as a free and trading republic, which was checked by the arms of a conqueror in the middle of the twelfth. Since her subjugation by Roger king of Sicily, the name of a people who for a while connected Europe with Asia has hardly been repeated except for two discoveries falsely imputed to them, those of the Pandects and of the compass.

But the decline of Amalfi was amply compensated to the rest of Italy by the constant elevation of Pisa,

* The Amalfitans are thus described by William of Apulia, apud Muratori, Dissert. 30.

Urbs hæc dives opum, populoque referta videtur,

Nulla magis locuples argento, vestibus, auro.

Partibus innumeris ac plurimus urbe moratur

Nauta, maris cœlique vias aperire peritus.

Huc et Alexandri diversa feruntur ab urbe.

Regis et Antiochi. Hæc [etiam?] freta plurima transit.

Hic Arabes, Indi, Siculi noscuntur, et Afri.

Hæc gens est totum prope nobilitata per orbem,

Et mercanda ferens, et amans mercata referre.

Genoa, and Venice in the twelfth and ensuing ages. The crusades led immediately to this growing prosperity of the commercial cities. Besides the profit accruing from so many naval armaments which they supplied, and the continual passage of private adventurers in their vessels, they were enabled to open a more extensive channel of oriental traffic than had hitherto been known. These three Italian republics enjoyed immunities in the Christian principalities of Syria; possessing separate quarters in Acre, Tripoli, and other cities, where they were governed by their own laws and magistrates. Though the progress of commerce must, from the condition of European industry, have been slow, it was uninterrupted; and the settlements in Palestine were becoming important as factories, an use of which Godfrey and Urban little dreamed, when they were lost through the guilt and imprudence of their inhabitants.* Villani laments the injury sustained by commerce in consequence of the capture of Acre, "situated, as it was, on the coast of the Mediterranean, in the centre of Syria, and, as we might say, of the habitable world, a haven for all merchandize, both from the East and the West, which all the nations of the earth frequented for this trade."† But the loss was soon retrieved, not perhaps by Pisa and Genoa,

* The inhabitants of Acre were noted, in an age not very pure, for the excess of their vices. In 1291, they plundered some of the subjects of a neighbouring Mohammedan prince, and refusing reparation, the city was besieged and taken by storm. Muratori, add ann. Gibbon, c. 59.

† Villani, l. vii. c. 144.

but by Venice, who formed connexions with the Saracen governments, and maintained her commercial intercourse with Syria and Egypt by their license, though subject probably to heavy exactions. Sanuto, a Venetian author at the beginning of the fourteenth century, has left a curious account of the Levant trade which his countrymen carried on at that time. Their imports it is easy to guess, and it appears that timber, brass, tin, and lead, as well as the precious metals, were exported to Alexandria, besides oil, saffron, and some of the productions of Italy, and even wool and woollen cloths.* The European side of the account had therefore become respectable.

The commercial cities enjoyed as great privileges at Constantinople as in Syria, and they bore an eminent part in the vicissitudes of the Eastern empire. After the capture of Constantinople by the Latin crusaders, the Venetians having been concerned in that conquest, became of course the favoured traders under the new dynasty ; possessing their own district in the city, with their magistrate or podesta, appointed at Venice, and subject to the parent republic. When the Greeks recovered the seat of their empire, the Genoese, who from jealousy of their rivals had contributed to that revolution, obtained similar immunities. This powerful and enterprising state, in the fourteenth century, sometimes the ally, sometimes the enemy of the Byzantine court, main-

* Macpherson, p. 490.

tained its independent settlement at Pera. From thence she spread her sails into the Euxine, and, planting a colony at Caffa in the Crimea, extended a line of commerce with the interior regions of Asia, which even the skill and spirit of our own times has not yet been able to revive.*

The French provinces which border on the Mediterranean Sea partook in the advantages which it offered. Not only Marseilles, whose trade had continued in a certain degree throughout the worst ages, but Narbonne, Nismes, and especially Montpellier, were distinguished for commercial prosperity.† A

* Capmany, *Memorias Historicas*, t. iii. preface, p. 11.; and part ii. p. 131. His authority is Balducci Pegalotti, a Florentine writer upon commerce about 1340, whose work I have never seen. It appears from Balducci, that the route to China was from Azoph to Astrakan, and thence by a variety of places which cannot be found in modern maps to Cambalu, probably Pekin, the capital city of China, which he describes as being one hundred miles in circumference. The journey was of rather more than eight months, going and returning; and he assures us it was perfectly secure, not only for caravans, but for a single traveller with a couple of interpreters and a servant. The Venetians had also a settlement in the Crimea, and appear by a passage in Petrarch's letters, to have possessed some of the trade through Tartary. In a letter written from Venice, after extolling in too rhetorical a manner the commerce of the republic, he mentions a particular ship, that had just sailed for the Black Sea. *Et ipsa quidem Tanaim it visura, nostri enim maris navigatio non ultra tenditur; eorum vero aliqui, quos hæc fert, illic iter [instituent] eam egressuri, nec antea substituri, quam Gange et Caucaso superato, ad Indos atque extremos Seres et Orientalem perveniatur Oceanum. En quo ardens et inexplebilis habendi sitis hominum mentes rapit!* *Petrarcæ Opera*, Senil. l. ii. ep. 3. p. 760. edit. 1581.

† *Hist. de Languedoc*, t. iii. p. 531.; t. iv. p. 517. *Mém. de l'Acad. des Inscriptions*, t. xxxvii.

still greater activity prevailed in Catalonia. From the middle of the thirteenth century (for we need not trace the rudiments of its history) Barcelona began to emulate the Italian cities in both the branches of naval energy, war and commerce. Engaged in frequent and severe hostilities with Genoa, and sometimes with Constantinople, while their vessels traded to every part of the Mediterranean, and even of the English channel, the Catalans might justly be reckoned among the first of maritime nations. The commerce of Barcelona has never since attained so great a height as in the fifteenth century.*

The introduction of a silk manufacture at Palermo, by Roger Guiscard in 1148, gave perhaps the earliest impulse to the industry of Italy. Nearly about the same time, the Genoese plundered two Moorish cities of Spain, from which they derived the same art. In the next age, this became a staple manufacture of the Lombard and Tuscan republics, and the cultivation of mulberries was enforced by their laws.† Woollen stuffs, though the trade was perhaps less conspicuous than that of Flanders, and though many of the coarser kinds were imported from thence, employed a multitude of workmen in

* Capmany, *Memorias Historicas de Barcelona*, t. i. part 2. See particularly p. 36.

† Muratori, *Dissert.* 30. *Denina, Rivoluzione d'Italia*, l. xiv. c. 11. The latter writer is of opinion that mulberries were not cultivated as an important object till after 1300, nor even to any great extent till after 1500; the Italian manufacturers buying most of their silk from Spain or the Levant.

Italy, Catalonia, and the south of France.* Among the trading companies into which the middling ranks were distributed, those concerned in silk and woollens were most numerous and honourable.†

A property of a natural substance, long overlooked even though it attracted observation by a different peculiarity, has influenced by its accidental discovery the fortunes of mankind, more than all the deductions of philosophy. It is perhaps impossible to ascertain the epoch when the polarity of the magnet was first known in Europe. The common opinion, which ascribes its discovery to a citizen of Amalfi in the fourteenth century, is undoubtedly erroneous. Guiot de Provins, a French poet who lived about the year 1200, or at the latest, under St. Louis, describes it in the most unequivocal language. James de Vitry, a bishop in Palestine, before the middle of the thirteenth century, and Guido Guinizzelli, an Italian poet of the same time, are equally explicit. The French, as well as Italians, claim the discovery as their own; but whether it were due to either of these nations, or rather learned from their intercourse with the Saracens, is not easily to be ascer-

* The history of Italian states, and especially Florence, will speak for the first country. Capmany attests the woollen manufacture of the second. *Mem. Hist. de Barcel.* t. i. part 3. p. 7, &c.; and Vaisette that of Carcassonne and its vicinity. *Hist. de Lang.* t. iv. p. 517.

† None were admitted to the rank of burgesses, in the towns of Aragon, who used any manual trade, with the exception of dealers in fine cloths. The woollen manufacture of Spain did not at any time become a considerable article of export, nor even supply the internal consumption, as Capmany has well shewn. *Memorias Historicas*, t. iii. p. 325. et seqq. and *Edinburgh Review*, vol. x.

tained.* For some time, perhaps, even this wonderful improvement in the art of navigation might not be universally adopted by vessels sailing within the Me-

* Boucher, the French translator of *Il Consolato del Mare*, says, that Edrissi, a Saracen geographer who lived about 1100, gives an account, though in a confused manner, of the polarity of the magnet. t. ii. p. 280. However the lines of Guiot de Provins are decisive. These are quoted in *Hist. Littéraire de la France*, t. ix. p. 199., *Mém. de l'Acad. des Inscript.* t. xxi. p. 192. and several other works. Guinizelli has the following passage, in a canzone quoted by Ginguéné, *Hist. Littéraire de l'Italie*, t. i. p. 413.

In quelle parti sotto tramontana,
Sono li monti della calamità,
Che dan virtute all' aere
Di trarre il ferro; ma perchè lontana,
Vole di simil pietra aver aita,
A far la adoperare,
E dirizzar lo ago in ver la stella.

We cannot be diverted by the nonsensical theory these lines contain, from perceiving the positive testimony of the last verse to the poet's knowledge of the polarity of the magnet. But, if any doubt could remain, Tiraboschi, t. iv. p. 171. has fully established, from a series of passages, that this phænomenon was well known in the thirteenth century; and put an end altogether to the pretensions of Flavio Gioja, if such a person ever existed. See also Macpherson's *Annals*, p. 364. and 418. It is provoking to find an historian like Robertson asserting without hesitation, that this citizen of Amalfi was the inventor of the compass, and thus accrediting an error which had long before been detected.

It is a singular circumstance, and only to be explained by the obstinacy with which men are apt to reject improvement, that the magnetic needle was not generally adopted in navigation, till very long after the discovery of its properties; and even after their peculiar importance had been perceived. The writers of the thirteenth century, who mention the polarity of the needle, mention also its use in navigation; yet Capmany has found no distinct proof of its employment till 1403, and does not believe that it was frequently on board Mediterranean ships at the latter part of the preceding age. *Memorias Historicas*, t. iii. p. 70. Perhaps however he has inferred too much from his negative proof; and this subject seems open to further inquiry.

diterranean, and accustomed to their old system of observations. But when it became more established, it naturally inspired a more fearless spirit of adventure. It was not, as has been mentioned, till the beginning of the fourteenth century, that the Genoese and other nations around that inland sea steered into the Atlantic ocean towards England and Flanders. This intercourse with the northern countries enlivened their trade with the Levant by the exchange of productions which Spain and Italy do not supply, and enriched the merchants by means of whose capital the exports of London and of Alexandria were conveyed into each other's harbours.

The usual risks of navigation, and those incident to commercial adventure, produce a variety of questions in every system of jurisprudence, which though always to be determined, so far as possible, by principles of natural justice, must in many cases depend upon established customs. These customs of maritime law were anciently reduced into a code by the Rhodians, and the Roman emperors preserved or reformed the constitutions of that republic. It would be hard to say, how far the tradition of this early jurisprudence survived the decline of commerce in the darker ages; but after it began to recover itself, necessity suggested, or recollection prompted, a scheme of regulations resembling in some degree, but much more enlarged than those of antiquity. This was formed into a written code, *Il Consolato del Mare*, not much earlier, probably, than the middle of the thirteenth century; and its promulgation seems rather to have proceeded from the citizens of Bar-

celona, than from those of Pisa or Venice, who have also claimed to be the first legislators of the sea.* Besides regulations simply mercantile, this system has defined the mutual rights of neutral and belligerent vessels, and thus laid the basis of the positive law of nations in its most important and disputed cases. The king of France and count of Provence solemnly acceded to this maritime code, which thus acquired a binding force within the Mediterranean sea; and in most respects, the law merchant of Europe is at present conformable to its provisions. A set of regulations, chiefly borrowed from the *Consolato*, was compiled in France under the reign of Louis IX., and prevailed in our own country. These have been denominated the laws of Oleron, from an idle story that they were enacted by Richard I., while his expedition to the Holy Land lay at anchor

* Boucher supposes it to have been compiled at Barcelona about 900; but his reasonings are inconclusive, t. i. p. 72.; and indeed Barcelona at that time was little, if at all, better than a fishing-town. Some argument might be drawn in favour of Pisa from the expressions of Henry IV.'s charter granted to that city in 1081. *Consuetudines, quas habent de mari, sic iis observabimus sicut illorum est consuetudo.* Muratori, *Dissert.* 45. Giannone seems to think the collection was compiled about the reign of Louis IX. l. xi. c. 6. Capmany, the last Spanish editor, whose authority ought perhaps to outweigh every other, asserts, and seems to prove them to have been enacted by the mercantile magistrates of Barcelona, under the reign of James the Conqueror, which is much the same period. (*Codigo de las Costumbres maritimas de Barcelona, Madrid, 1791.*) But, by whatever nation they were reduced into their present form, these laws were certainly the ancient and established usages of the Mediterranean states; and Pisa may very probably have taken a great share in first practising what a century or two afterwards was rendered more precise at Barcelona.

in that island.* Nor was the North without its peculiar code of maritime jurisprudence; namely, the ordinances of Wisbuy, a town in the isle of Gothland, principally compiled from those of Oleron, before the year 1400, by which the Baltic traders were governed.†

There was abundant reason for establishing among maritime nations some theory of mutual rights, and for securing the redress of injuries, as far as possible, by means of acknowledged tribunals. In that state of barbarous anarchy, which so long resisted the coercive authority of civil magistrates, the sea held out even more temptation and more impunity than the land; and when the laws had regained their sovereignty, and neither robbery nor private warfare was any longer tolerated, there remained that great common of mankind, unclaimed by any king, and the liberty of the sea was another name for the security of plunderers. A pirate in a well-armed, quick sailing vessel, must feel, I suppose, the enjoyments of his exemption from controul more exquisitely than any other free-booter; and darting along the bosom of the ocean, under the impartial radiance of the heavens, may deride the dark con-

* Macpherson, p. 358. Boucher supposes them to be registers of actual decisions.

† I have only the authority of Boucher for referring the Ordinances of Wisbuy to the year 1400. Beckman imagines them to be older than those of Oleron. But Wisbuy was not enclosed by a wall till 1288, a proof that it could not have been previously a town of much importance. It flourished chiefly in the first part of the fourteenth century, and was at that time an independent republic; but fell under the yoke of Denmark before the end of the same age.

cealments and hurried flights of the forest robber. His occupation is indeed extinguished by the civilization of later ages, or confined to distant climates. But in the thirteenth and fourteenth centuries, a rich vessel was never secure from attack; and neither restitution nor punishment of the criminals was to be obtained from governments, who sometimes feared the plunderer, and sometimes connived at the offence.* Mere piracy, however, was not the only danger. The maritime towns of Flanders, France and England, like the free republics of Italy, prosecuted their own quarrels by arms, without asking the leave of their respective sovereigns. This practice, exactly analogous to that of the private war in the feudal system, more than once involved the kings of France and England in hostility.† But where the quarrel did not proceed to such a length as absolutely to engage two opposite towns, a modification of this ancient right of revenge formed part of the regular law of nations, under the name of reprisals. Whoever was plundered or injured by the inhabitant of another town obtained authority from his own magistrates to seize the property of any other per-

* Hugh Despenser seized a Genoese vessel valued at 14,300 marks, for which no restitution was ever made. Rym. iv. p. 701. Macpherson, A. D. 1336.

† The Cinque Ports and other trading towns of England were in a constant state of hostility with their opposite neighbours, during the reigns of Edward I. and II. One might quote almost half the instruments in Rymer, in proof of these conflicts, and of those with the mariners of Norway and Denmark. Sometimes mutual envy produced frays between different English towns. Thus in 1254, the Winchelsea mariners attacked a Yarmouth galley, and killed some of her men. Matt. Paris, apud Macpherson.

son belonging to it, until his loss should be compensated. This law of reprisal was not confined to maritime places. It prevailed in Lombardy, and probably in the German cities. Thus if a citizen of Modena was robbed by a Bolognese, he complained to the magistrates of the former city, who represented the case to those of Bologna, demanding redress. If this were not immediately granted, letters of reprisals were issued, to plunder the territory of Bologna till the injured party should be reimbursed by the sale of the spoil.* In the laws of Marseilles it is declared, "If a foreigner take any thing from a citizen of Marseilles, and he who has jurisdiction over the said debtor or unjust taker does not cause right to be done in the same, the rector or consuls, at the petition of the said citizen, shall grant him reprisals upon all the goods of the said debtor or unjust taker, and also upon the goods of others, who are under the jurisdiction of him who ought to do justice, and would not, to the said citizen of Marseilles."† Edward III. remonstrates, in an instrument published by Rymer, against letters of marque granted by the king of Aragon to one Berenger de la Tone, who had been robbed by an English pirate of 2000*l.*; alleging, that inasmuch as he had always been ready to give redress to the party, it seemed to his counsellors that there was no just cause for reprisals upon the king's or his subject's property.‡

* Muratori, Dissert. 53. † Du Cange, voc. *Laudum*.

‡ Rym. t. iv. p. 577. *Videtur sapientibus et peritis, quod causa, de jure, non subfuit marcham seu reprisaliam in nostris, seu subditorum nostrorum, bonis concedendi. See too a case*

This passage is so far curious, as it asserts the existence of a customary law of nations, the knowledge of which was already a sort of learning. Sir E. Coke speaks of this right of private reprisals, as if it still existed; and it is certainly preserved in an unrepealed statute.*

A practice founded on the same principles as reprisal, though rather less violent, was that of attaching the goods or persons of resident foreigners for the debts of their countrymen. This indeed, in England, was not confined to foreigners until the statute of Westminster I. c. 23. which enacts that "no stranger who is of this realm shall be distrained in any town or market for a debt wherein he is neither principal nor surety." Henry III. had previously granted a charter to the burgesses of Lubec, that they should not be arrested for the debt of any of their countrymen, unless the magistrates of Lubec neglected to compel payment.† But by a variety of grants from Edward II., the privileges of English subjects under the statute of Westminster were extended to most foreign nations.‡ This unjust responsibility had not been confined to civil cases. One of a company of Italian merchants, the Spini, having killed a man, the

of neutral goods on board an enemy's vessel claimed by the owners, and a legal distinction taken in favour of the captors. t. vi. p. 14.

* 27 E. III. stat. ii. c. 17. 2 Inst. p. 205. See instances of letters of private reprisal granted by Henry IV., Rymer, t. viii. p. 96. 717. 773.

† Rymer, t. i. p. 839.

‡ Idem, t. iii. p. 458. 647. 678. et infra. See too the ordinances of the staple, in 27 Edw. III., which confirm this among other privileges, and contain manifold evidence of the regard paid to commerce in that reign.

officers of justice seized the bodies and effects of all the rest.*

If under all these obstacles, whether created by barbarous manners, by national prejudice, or by the fraudulent and arbitrary measures of princes, the merchants of different countries became so opulent as almost to rival the ancient nobility, it must be ascribed to the greatness of their commercial profits. The trading companies possessed either a positive or a virtual monopoly, and held the keys of those eastern regions for the luxuries of which the progressive refinement of manners produced an increasing demand. It is not easy to determine the average rate of profit;† but we know that the interest of money was exceedingly high throughout the middle ages. At Verona, in 1228, it was fixed by law at twelve and a half per cent.; at Modena, in 1270, it seems to have been as high as twenty.‡ The republic of Genoa towards the end of the fourteenth century, when Italy had grown wealthy, paid only from seven to ten per cent. to her creditors.§ But in France and England the rate was far more oppressive. An ordinance of Philip the Fair in 1311, allows twenty per cent. after the first year of the loan.|| Under Henry III. accord-

* Rymer, t. ii. p. 891. Madox, Hist. Exchequer, c. xxii. s. 7.

† In the remarkable speech of the Doge Mocenigo, quoted in another place, the annual profit made by Venice on her mercantile capital, is reckoned at forty per cent.

‡ Muratori, Dissert. 16.

§ Bizarri Hist. Genuens. p. 797. The rate of discount on bills, which may not have exactly corresponded to the average annual interest of money, was ten per cent. at Barcelona in 1435. Capmany, t. i. p. 209.

|| Du Cange, v. Usura.

ing to Matthew Paris, the debtor paid ten per cent every two months;* but this is absolutely incredible as a general practice. This was not merely owing to a scarcity of money, but to the discouragement which a strange prejudice opposed to one of the most useful and legitimate branches of commerce. Usury, or lending money for profit, was treated as a crime by the theologians of the middle ages; and though the superstition has been eradicated, some part of the prejudice remains in our legislation. This trade in money, and indeed a great part of inland trade in general, had originally fallen to the Jews, who were noted for their usury so early as the sixth century.† For several subsequent ages they continued to employ their capital and industry to the same advantage, with little molestation from the clergy, who always tolerated their avowed and national infidelity, and often with some encouragement from princes. In the twelfth century we find them not only possessed of landed property in Languedoc, and cultivating the studies of medicine and Rabbinical literature in their own academy at Montpellier under the protection of the count of Toulouse, but invested with civil offices.‡ Raymond Roger, viscount of Carcassonne, directs a writ “to his bailiffs Christian and Jewish.”§ It was one of the conditions imposed by the church on the count of Toulouse, that he should allow no Jews to possess magistracy in his dominions.|| In Spain they

* Muratori, Diss. 16.

† Greg. Turon. l. iv.

‡ Hist. de Languedoc, t. ii. p. 517.; t. iii. p. 531.

§ Id. t. iii. p. 121.

|| Id. p. 163.

were placed by some of the municipal laws on the footing of Christians, with respect to the composition for their lives, and seem in no other European country to have been so numerous or considerable.* The diligence and expertness of this people in all pecuniary dealings recommended them to princes who were solicitous about the improvement of their revenue. We find an article in the general charter of privileges granted by Peter III. of Aragon, in 1283, that no Jew should hold the office of bayle or judge. And two kings of Castile, Alonso XI. and Peter the Cruel, incurred much odium by employing Jewish ministers in their treasury. But, in other parts of Europe, their condition had, before that time, begun to change for the worse; partly from the fanatical spirit of the crusades, which prompted the populace to massacre, and partly from the jealousy which their opulence excited. Kings, in order to gain money, and popularity at once, abolished the debts due to the children of Israel, except a part which they retained as the price of their bounty. One is at a loss to conceive the process of reasoning in an ordinance of St. Louis, where, "for the salvation of his own soul and those of his ancestors, he releases to all Christians a third part of what was owing by them to Jews."† Not content with such edicts, the kings of France sometimes banished the whole nation from their dominions, seizing their effects at the same time; and a season of alternate severity and toleration continued till, under Charles VI., they were finally ex-

* Marina, *Ensayo Historico-Critico*, p. 143.

† Martenne, *Thesaurus Anecdotorum*, t. i. p. 984.

pelled from the kingdom, where they never afterwards possessed any legal settlement.* In England they were not so harshly treated; but they became less remarkable for riches after the thirteenth century. This decline of the Jews was owing to the transference of their trade in money to other hands. In the early part of the thirteenth century the merchants of Lombardy and of the south of France† took up the business of remitting money by bills of exchange,‡ and of making profit upon loans. The utility of this was found so great, especially by the Italian clergy, who thus in an easy manner drew the income of their transalpine benefices, that in spite of much obloquy, the Lombard usurers established themselves in every country; and the general progress of commerce wore

* Velly, t. iv. p. 136.

† The city of Cahors, in Quercy, the modern department of the Lot, produced a tribe of money dealers. The Caursini are almost as often noticed as the Lombards. See the article in Du Cange. In Lombardy, Asti, a city of no great note in other respects, was famous for the same department of commerce.

‡ There were three species of paper credit in the dealings of merchants: 1. General letters of credit, not directed to any one, which are not uncommon in the Levant: 2. Orders to pay money to a particular person: 3. Bills of exchange regularly negotiable. Boucher, t. ii. p. 621. Instances of the first are mentioned by Macpherson about 1200. p. 367. The second species was introduced by the Jews about 1183, (Capmany, t. i. p. 297.) but it may be doubtful whether the last stage of the progress was reached nearly so soon. An instrument in Rymer however of the year 1364, (t. vi. p. 495.) mentions *literæ cambitoriaræ*, which seem to have been negotiable bills; and by 1400 they were drawn in sets, and worded exactly as at present. Macpherson, p. 614, and Beckman, *Hist. of Inventions*, vol. iii. p. 430. give from Capmany an actual precedent of a bill dated in 1404.

off the bigotry that had obstructed their reception. A distinction was made between moderate and exorbitant interest; and though the casuists did not acquiesce in this legal regulation, yet it satisfied, even in superstitious times, the consciences of provident traders.* The Italian bankers were frequently allowed to farm the customs in England, as a security, perhaps, for loans which were not very punctually repaid.† In 1345 the Bardi at Florence, the greatest company in Italy, became bankrupt, Edward III. owing them, in

* Usury was looked upon with horror by our English divines after the Reformation, as we find in Strype's Life of Parker. Isaac Walton, if I remember right, tells us that Bishop Sanderson would not take interest for his money, but would give 100*l.* on condition of receiving 20*l.* for seven years, which he was pleased to consider a different thing. Fleury, in his *Institutions au Droit Ecclésiastique*, t. ii. p. 129. has shewn the subterfuges to which men had recourse, in order to evade this prohibition. It is an unhappy truth, that great part of the attention devoted to the best of sciences, ethics and jurisprudence, has been employed to weaken principles that ought never to have been acknowledged.

One species of usury, and that of the highest importance to commerce, was always permitted, on account of the risk that attended it. This was marine insurance, which could not have existed, until money was considered, in itself, as a source of profit. The earliest regulations on the subject of insurance are those of Barcelona in 1433; but the practice was, of course, earlier than these, though not of great antiquity. It is not mentioned in the *Consolato del Mare*, nor in any of the Hanseatic laws of the fourteenth century. Beckman, vol. i. p. 388. This author, not being aware of the Barcelonese laws on this subject, published by Capmany, supposes the first provisions regulating marine assurance to have been made at Florence in 1523.

† Macpherson, p. 437. et alibi. They had probably excellent bargains: in 1329 the Bardi farmed all the customs of England for £20 a day. But, in 1282, the customs had produced £8411, and half a century of great improvement had elapsed.

principal and interest, 900,000 gold florins. Another, the Peruzzi, failed at the same time, being creditors to Edward for 600,000 florins. The king of Sicily owed 100,000 florins to each of these bankers. Their failure involved, of course, a multitude of Florentine citizens, and was a heavy misfortune to the state.*

The earliest bank of deposit, instituted for the accommodation of private merchants, is said to have been that of Barcelona, in 1401.† The banks of Venice and Genoa were of a different description. Although the former of these two has the advantage of greater antiquity, having been formed, as we are told, in the twelfth century, yet its early history is not so clear as that of Genoa, nor its political importance so remarkable, however similar might be its origin.‡ During the wars of Genoa in the fourteenth century, she had borrowed large sums of private citizens, to whom the revenues were pledged for repayment. The republic of Florence had set a recent, though not a very encouraging, example of a public loan, to defray the expense of her war against Mastino della Scala, in 1336. The chief mercantile firms, as well as individual citizens, furnished money on an assignment of the taxes, receiving fifteen per cent. interest; which appears to have been above the rate of private usury.§ The state was not unreason-

* Villani, l. xii. c. 55. 87. He calls these two banking-houses the pillars which sustained great part of the commerce of Christendom.

† Capmany, t. i. p. 213.

‡ Macpherson, p. 341. from Sanuto. The bank of Venice is referred to 1171.

§ G. Villani, l. xi. c. 49.

ably considered a worse debtor than some of her citizens; for in a few years these loans were consolidated into a general fund, or *monte*, with some deduction from the capital, and a great diminution of interest; so that an original debt of one hundred florins sold only for twenty-five.* But I have not found that these creditors formed at Florence a corporate body, or took any part, as such, in the affairs of the republic. The case was different at Genoa. As a security at least for their interest, the subscribers to public loans were permitted to receive the produce of the taxes by their own collectors, paying the excess into the treasury. The number and distinct classes of these subscribers becoming at length inconvenient, they were formed, about the year 1407, into a single corporation, called the bank of St. George, which was from that time the sole national creditor and mortgagee. The government of this was entrusted to eight protectors. It soon became almost independent of the state. Every senator, on his admission, swore to maintain the privileges of the bank, which were confirmed by the pope, and even by the emperor. The bank interposed its advice in every measure of government, and generally, as is admitted, to the public advantage. It equipped armaments at its own expense, one of which subdued the island of Corsica; and this acquisition, like those of our great Indian corporation, was long subject to

* Matt. Villani, p. 227. (in Muratori, Script. Rom. Ital. t. xiv.)

a company of merchants, without any interference of the mother country.*

The increasing wealth of Europe, whether derived from internal improvement, or foreign commerce, displayed itself in more expensive consumption, and greater refinements of domestic life. But these effects were for a long time very gradual, each generation making a few steps in the progress, which are hardly discernible except by an attentive inquirer. It is not till the latter half of the thirteenth century, that an accelerated impulse appears to be given to society. The just government and suppression of disorder under St. Louis, and the peaceful temper of his brother Alfonso, count of Toulouse and Poitou, gave France leisure to avail herself of her admirable fertility. England, that to a soil not perhaps inferior to that of France, united the inestimable advantage of an insular position, and was invigorated, above all, by her free constitution, and the steady industriousness of her people, rose with a pretty uniform motion from the time of Edward I. Italy, though the better days of freedom had passed away in most of her republics, made a rapid transition from simplicity to refinement. "In those times," says a writer about the year 1300, speaking of the age of Frederic II., "the manners of the Italians were rude. A man and his wife ate off the same plate. There were no wooden handled knives, nor more than one or two drinking cups, in a house. Candles of wax

* Bizarri Hist. Genuens. p. 797. (Antwerp, 1579.) Machiavelli, Storia Fiorentina, l. viii.

or tallow were unknown; a servant held a torch during supper. The clothes of men were of leather unlined: scarcely any gold or silver was seen on their dress. The common people ate flesh but three times a week, and kept their cold meat for supper. Many did not drink wine in summer. A small stock of corn seemed riches. The portions of women were small; their dress, even after marriage, was simple. The pride of men was to be well provided with arms and horses; that of the nobility to have lofty towers, of which all the cities in Italy were full. But now frugality has been changed for sumptuousness; every thing exquisite is sought after in dress; gold, silver, pearls, silks, and rich furs. Foreign wines and rich meats are required. Hence usury, rapine, fraud, tyranny,* &c. This passage is supported by other testimonies nearly of the same time. The conquest of Naples by Charles of Anjou, in 1266, seems to have been the epoch of increasing luxury throughout Italy. His Provençal knights, with their plumed helmets and golden collars, the chariot of his queen covered with blue velvet, and sprinkled with lillies of

* Ricobaldus Ferrarensis, apud Murat. Dissert 23. Francisc. Pippinus ibidem. Muratori endeavours to extenuate the authority of this passage, on account of some more ancient writers who complain of the luxury of their times, and of some particular instances of magnificence and expense. But Ricobaldi alludes, as Muratori himself admits, to the mode of living in the middle ranks, and not to that of courts, which in all ages might occasionally display considerable splendour. I see nothing to weaken so explicit a testimony of a contemporary, which in fact is confirmed by many writers of the next age, who, according to the practice of Italian chroniclers, have copied it as their own.

gold, astonished the citizens of Naples.* Provence had enjoyed a long tranquillity, the natural source of luxurious magnificence; and Italy, now liberated from the yoke of the empire, soon reaped the same fruit of a condition more easy and peaceful than had been her lot for several ages. Dante speaks of the change of manners at Florence, from simplicity and virtue to refinement and dissoluteness, in terms very nearly similar to those quoted above.†

Throughout the fourteenth century, there continued to be a rapid but steady progression in England, of what we may denominate elegance, improvement, or luxury; and if this was for a time suspended in France, it must be ascribed to the unusual calamities which befell that country under Philip of Valois and his son. Just before the breaking out of the English wars, an excessive fondness for dress is said to have distinguished not only the higher ranks, but the burghers, whose foolish emulation at least indicates their easy circumstances.‡ Modes of dress

* Murat. Dissert. 23.

† Bellincion Berti vid' io andar cinto
Di cuojo e d'osso, e venir dallo specchio
La donna sua senza 'l viso dipinto.
E vidi quel di Nerli, e quel del Vecchio
Esser contenti alla pelle scoperta,
E sue donne al fuso ed al pennechio.

Paradiso, cant. xv.

See too the rest of this canto. But this is put in the mouth of Cacciaguida, the poet's ancestor, who lived in the former half of the twelfth century. The change, however, was probably subsequent to 1250, when the times of wealth and turbulence began at Florence.

‡ Velly, t. viii. p. 352. The second continuator of Nangis vehemently inveighs against the long beards and short breeches

hardly perhaps deserve our notice on their own account; yet so far as their universal prevalence was a symptom of diffused wealth, we should not overlook either the invectives bestowed by the clergy on the fantastic extravagances of fashion, or the sumptuary laws by which it was endeavoured to restrain them.

The principle of sumptuary laws was partly derived from the small republics of antiquity, which might perhaps require that security for public spirit and equal rights; partly from the austere and injudicious theory of religion disseminated by the clergy. These prejudices united to render all increase of general comforts odious under the name of luxury; and a third motive more powerful than either, the jealousy with which the great regard any thing like imitation in those beneath them, co-operated to produce a sort of restrictive code in the laws of Europe. Some of these regulations are more ancient; but the chief part were enacted, both in France and England, during the fourteenth century; extending to expenses of the table, as well as of apparel. The first statute of this description in our own country was, however, repealed the next year;* and subse-

of his age; after the introduction of which novelties, he judiciously observes, the French were much more disposed to run away from their enemies than before. *Spicilegium*, t. iii. p. 105.

* 37 E. III. Rep. 38 E. III. Several other statutes of a similar nature were passed in this and the ensuing reign. In France, there were sumptuary laws as old as Charlemagne, prohibiting or taxing the use of furs; but the first extensive regulation was under Philip the Fair. *Velly*, t. vii. p. 64.; t. xi. p. 190. These attempts to restrain what cannot be restrained continued even down to 1700. *De la Mare*, *Traité de la Police*, t. i. l. iii.

quent provisions were entirely disregarded by a nation which valued liberty and commerce too much to obey laws conceived in a spirit hostile to both. Laws indeed designed by those governments to restrain the extravagance of their subjects may well justify the severe indignation which Adam Smith has poured upon all such interference with private expenditure. The kings of France and England were undoubtedly more egregious spendthrifts than any others in their dominions: and contributed far more by their love of pageantry to excite a taste for dissipation in their people, than by their ordinances to repress it.

Mussus, an historian of Placentia, has left a pretty copious account of the prevailing manners among his countrymen about 1388; and expressly contrasts their more luxurious living with the style of their ancestors seventy years before; when, as we have seen, they had already made considerable steps towards refinement. This passage is highly interesting; because it shews the regular tenor of domestic œconomy in an Italian city, rather than a mere display of individual magnificence, as in most of the facts collected by our own and the French antiquaries. But it is much too long for insertion in this place.* No other country, perhaps, could exhibit so fair a picture of middle life; in France the burghers and even the inferior gentry were for the most part in a state of poverty at this period, which

* Muratori, *Antichità Italiane*, Dissert. 23. t. i. p. 325.

they concealed by an affectation of ornament; while our English yeomanry and tradesmen were more anxious to invigorate their bodies by a generous diet, than to dwell in well-furnished houses, or to find comfort in cleanliness and elegance.* The German cities however had acquired with liberty the spirit of improvement and industry. From the time that Henry V. admitted their artisans to the privileges of free burghers, they became more and more prosperous;† while the steadiness and frugality of the German character compensated for some disadvantages arising out of their inland situation. Spire, Nuremberg, Ratisbon, and Augsburg, were not indeed like the rich markets of London and Bruges, nor could their burghers rival the princely merchants of Italy; but they enjoyed the blessings of competence diffused over a large class of industrious freemen, and, in the fifteenth century, one of the politest Italians could extol their splendid and well-furnished dwellings, their rich apparel, their easy and affluent mode of living, the security of their rights, and just equality of their laws.‡

* These English, said the Spaniards who came over with Philip II., have their houses made of sticks and dirt, but they fare commonly so well as the king. Harrison's Description of Britain, prefixed to Hollingshed, vol. i. p. 315. (edit. 1807.)

† Pfeffel, t. i. p. 293.

‡ Æneas Sylvius, De Moribus Germanorum. This treatise is an amplified panegyric upon Germany, and contains several curious passages. They must be taken, perhaps, with some allowance; for the drift of the whole is to persuade the Germans, that so rich and noble a country could afford a little money for the poor pope. *Civitates quas vocant liberas, cum Imperatori solum subjiciuntur, cujus jugum est instar liber-*

No chapter in the history of national manners would illustrate so well, if duly executed, the progress of social life, as that dedicated to domestic architecture. The fashions of dress and of amusements are generally capricious and irreducible to rule ; but every change in the dwellings of mankind, from the rudest wooden cabin to the stately mansion, has been dictated by some principle of convenience, neatness, comfort or magnificence. Yet this most interesting field of research has been less beaten by our antiquaries than others comparatively barren. I

tatis; nec profectò usquam gentium tanta libertas est, quantâ fruuntur hujusmodi civitates. Nam populi quos Itali vocant liberos, hi potissimum serviunt, sive Venetias inspectes, sive Florentiam aut Cœnas, in quibus cives præter paucos qui reliquos ducunt, loco mancipiorum habentur. Cum nec rebus suis uti, ut libet, vel fari quæ velint, et gravissimis opprimuntur pecuniarum exactionibus. Apud Germanos omnia læta sunt, omnia jucunda; nemo suis privatur bonis. Salva cuique sua hæreditas est, nulli nisi nocenti magistratus nocent. Nec apud eos factiones sicut apud Italas urbes grassantur. Sunt autem supra centum civitates hæc libertate fruentes. p. 1058.

In another part of his works, p. 719, he gives a specious account of Vienna. The houses, he says, had glass windows and iron doors. Fenestræ undique vitreæ perlucent, et ostia plerumque ferrea. In domibus multa et munda supellex. Altæ domus magnificæque visuntur. Unum id dedecori est, quod tecta plerumque ligno contegunt, pauca latere. Cætera ædificia muro lapideo consistunt. Pictæ domus et exterius et interius splendent. Civitatis populus 50,000 *communicantium* creditur. I suppose this gives at least double for the total population. He proceeds to represent the manners of the city in a less favourable point of view, charging the citizens with gluttony and libertinism, the nobility with oppression, the judges with corruption, &c. Vienna probably had the vices of a flourishing city; but the love of amplification in so rhetorical a writer as Æneas Sylvius weakens the value of his testimony, on whichever side it is given.

do not pretend to a complete knowledge of what has been written by these learned inquirers ; but I can only name one book in which the civil architecture of our ancestors has been sketched, loosely indeed, but with a superior hand ; and another, in which it is partially noticed. I mean by the first, a chapter in the Appendix to Dr. Whitaker's History of Whalley ; and by the second, Mr. King's Essays on Ancient Castles in the *Archæologia*.* Of these I shall make free use in the following paragraphs.

The most ancient buildings which we can trace in this island, after the departure of the Romans, were circular towers of no great size, whereof many remain in Scotland ; erected either on a natural eminence, or on an artificial mound of earth. Such are Conisborough Castle in Yorkshire, and Castleton in Derbyshire, built perhaps before the conquest.† To the lower chambers of those gloomy keeps there was no admission of light or air, except through long narrow loop-holes, and an aperture in the roof. Re-

* Vols. iv. and vi.

† Mr. Lysons refers Castleton to the age of William the Conqueror, but without giving any reasons. Lysons's Derbyshire, p. ccxxxvi. Mr. King had satisfied himself that it was built during the Heptarchy, and even before the conversion of the Saxons to Christianity ; but in this he gave the reins, as usual, to his imagination, which as much exceeded his learning, as the latter did his judgment. Conisborough should seem, by the name, to have been a royal residence, which it certainly never was after the conquest. But if the engravings of the decorative parts in *Archæologia*, vol. vi. p. 244. are not remarkably inaccurate, the architecture is too elegant for the Danes, much more for the unconverted Saxons. Both these castles are enclosed by a court, or ballium, with a fortified entrance, like those erected by the Normans.

gular windows were made in the upper apartments. Were it not for the vast thickness of the walls, and some marks of attention both to convenience and decoration in these structures, we might be induced to consider them as rather intended for security during the transient inroad of an enemy, than for a chieftain's usual residence. They bear a close resemblance, except by their circular form, and more insulated situation, to the peels, or square towers of three or four stories, which are still found contiguous to ancient mansion-houses, themselves far more ancient, in the northern counties,* and seem to have been designed for places of refuge.

In course of time, the barons, who owned these castles, began to covet a more comfortable dwelling. The keep was either much enlarged, or altogether relinquished as a place of residence, except in time of siege ; while more convenient apartments were sometimes erected in the tower of entrance, over the great gate-way, which led to the inner ballium or court-yard. Thus at Tunbridge Castle, this part of which is referred by Mr. King to the beginning of the thirteenth century, there was a room, twenty-eight feet by sixteen, on each side of the gate-way ; another above, of the same dimensions, with an intermediate room over the entrance ; and one large apartment on a second floor occupying the whole space, and intended for state. The windows in this class of castles were still little better than loop-holes on the

* Whitaker's Hist. of Whalley. Lysons's Cumberland, p. ccvi.

basement story, but in the upper rooms often large and beautifully ornamented, though always looking inwards to the court. Edward I. introduced a more splendid and convenient style of castles, containing many habitable towers, with communicating apartments. Conway and Carnarvon will be familiar examples. The next innovation was the castle-palace; of which Windsor, if not quite the earliest, is the most magnificent instance. Alnwick, Naworth, Harewood, Spofforth, Kenilworth, and Warwick, were all built upon this scheme during the fourteenth century, but subsequent enlargements have rendered caution necessary to distinguish their original remains. "The odd mixture," says Mr. King, "of convenience and magnificence with cautious designs for protection and defence, and with the inconveniences of the former confined plan of a close fortress, is very striking." The provisions for defence became now, however, little more than nugatory; large arched windows, like those of cathedrals, were introduced into halls, and this change in architecture manifestly bears witness to the cessation of baronial wars, and the increasing love of splendour in the reign of Edward III.

To these succeeded the castellated houses of the fifteenth century; such as Herstmonceux in Sussex; Haddon Hall in Derbyshire, and the older part of Knowle in Kent.* They resembled fortified castles

* The ruins of Herstmonceux are, I believe, tolerably authentic remains of Henry VI.'s age, but a modern antiquary asserts that only one of the courts at Haddon Hall is of the fifteenth century. Lysons's Derbyshire.

in their strong gate-ways, their turrets and battlements, to erect which a royal licence was necessary, but their defensive strength could only have availed against a sudden affray or attempt at forcible dispossession. They were always built round one or two court-yards, the circumference of the first, when there were two, being occupied by the offices and servants' rooms, that of the second by the state-apartments. Regular quadrangular houses not castellated, were sometimes built during the same age, and under Henry VII. became universal in the superior style of domestic architecture.* The quadrangular form, as well from security and convenience as from imitation of conventual houses, which were always constructed upon that model, was generally preferred; even where the dwelling-house, as indeed was usual, only took up one side of the inclosure, and the remaining three contained the offices, stables, and farm-buildings with walls of communication. Several very old parsonages appear to have been built in this manner.† It is, however, very difficult to discover any fragments of houses inhabited by the gentry, before the reign, at soonest, of Edward III., or even to trace them by engravings in the older topographical works; not only from the dilapidations of time, but because very few considerable mansions had been erected by that class. A great part of England affords no stone fit for building; and the vast, though unfortunately not inexhaustible, re-

* Archæologia, vol. vi.

† Blomefield's Norfolk, vol. iii. p. 242.

sources of her oak forests were easily applied to less durable and magnificent structures. A frame of massive timber, independent of walls, and resembling the inverted hull of a large ship, formed the skeleton, as it were, of an ancient hall; the principal beams springing from the ground naturally curved, and forming a Gothic arch overhead. The intervals of these were filled up with horizontal planks; but in the earlier buildings, at least in some districts, no part of the walls was of stone.* Stone houses however are mentioned as belonging to citizens of London, even in the reign of Henry II.† and, though not often perhaps regularly hewn stones, yet those scattered over the soil, or dug from flint quarries, bound together with a very strong and durable cement, were employed in the construction of manerial houses, especially in the western counties, and other parts where that material is easily procured.‡ Gradually, even in timber buildings, the intervals of the main beams, which now became perpendicular, not throwing off their curved springers till they reached a considerable height, were occupied by stone walls, or, where stone was expensive, by mortar or plaster, intersected by horizontal or diagonal beams, grooved into the principal piers.§ This mode of building continued for a long

* Whitaker's Hist. of Whalley.

† Lyttleton, t. iv. p. 130.

‡ Harrison says, that few of the houses of the commonalty, except here and there in the west-country towns, were made of stone. p. 314. This was about 1570.

§ Hist. of Whalley.

time, and is still familiar to our eyes in the older streets of the metropolis and other towns, and in many parts of the country.* Early in the fourteenth century, the art of building with brick, which had been lost since the Roman dominion, was introduced probably from Flanders. Though several edifices of that age are constructed with this material, it did not come into general use till the reign of Henry VI.† Many considerable houses as well as public buildings were erected with bricks during his reign and that of Edward IV., chiefly in the eastern counties, where the deficiency of stone was most experienced. Few, if any, brick mansion houses of the fifteenth century exist, except in ruins; but Queen's College and Clare Hall at Cambridge, and part of Eton College, are subsisting witnesses to the durability of the material as it was then employed.

It is an error to suppose, that the English gentry were lodged in stately or even well-sized houses. Generally speaking, their dwellings were almost as inferior to those of their descendants in capacity, as they were in convenience. The usual arrangement consisted of an entrance passage running through the house, with a hall on one side, a parlour beyond, and one or two chambers above, and on the opposite

* The ancient manours and houses of our gentlemen, says Harrison, are yet and for the most part of strong timber, in framing whereof our carpenters have been and are worthily preferred before those of like science among all other nations. Howbeit such as are lately builded, are either of brick or hard stone, or both. p. 316.

† Archæologia, vol. i. p. 143. ; vol. iv. p. 91.

side, a kitchen, pantry, and other offices.* Such was the ordinary manor-house of the fifteenth and sixteenth centuries, as appears not only from documents and engravings, but, as to the latter period, from the buildings themselves, sometimes, though not very frequently, occupied by families of consideration, more often converted into farm-houses, or distinct tenements. Larger structures were erected by men of great estates during the reigns of Henry VI. and Edward IV.; but very few can be traced much higher; and such has been the effect of time, still more through the advance or decline of families, and the progress of architectural improvement, than the natural decay of these buildings, that I should conceive it difficult to name a house in England, still inhabited by a gentleman, and not belonging to the order of castles, the principal apartments of which are older than the reign of Henry VII. The instances at least must be extremely few.†

* Hist. of Whalley. In Strutt's View of Manners, we have an inventory of furniture in the house of Mr. Richard Fermor, ancestor of the earl of Pomfret, at Easton in Northamptonshire, and another in that of Sir Adrian Foskewe. Both these houses appear to have been of the dimensions and arrangement mentioned. And even in houses of a more ample extent, the bisection of the ground-plot by an entrance passage was, I believe, universal, and is a proof of antiquity. Haddon Hall and Penshurst still display this ancient arrangement, which has been altered in some old houses. About the reign of James I., or perhaps a little sooner, architects began to perceive the additional grandeur of entering the great hall at once.

† Single rooms, windows, doorways, &c. of an earlier date may perhaps not unfrequently be found; but such instances are always to be verified by their intrinsic evidence, not by the

France by no means appears to have made a greater progress than our own country in domestic architecture. Except fortified castles, I do not find in the work of a very miscellaneous, but apparently diligent writer,* any considerable dwellings mentioned before the reign of Charles VII., and very few of so early a date.† Jacques Cœur, a famous merchant unjustly persecuted by that prince, had a handsome house at Paris, as well as another at Beaumont-sur-Oise.‡ It is obvious that the long calami-

tradition of the place. The most remarkable fragment of early building which I have any where found mentioned, is at a house in Berkshire, called Appleton, where there exists a sort of prodigy, an entrance passage with circular arches in the Saxon style, which must probably be as old as the reign of Henry II. No other private house in England, or perhaps in Europe, can boast of such a monument of antiquity. Lysons's Berkshire, p. 212. 234.

* *Melangés tirés d'une grande bibliothèque, par M. de Paulmy, t. iii. et xxxi.* It is never to be regretted that Le Grand d'Aussy never completed that part of his *Vie privée des Français*, which was to have comprehended the history of civil architecture. Villaret has slightly noticed its state about 1380. t. ii. p. 141.

† Chenonceaux in Touraine was built by a nephew of Chancellor Duprat; Gaillon in the department of Eure by Cardinal Amboise; both at the beginning of the sixteenth century. These are now considered, in their ruins, as among the most ancient houses in France. A rare work by Ducerceau, (*Les plus excellens bâtimens de France, 1607.*) gives accurate engravings of thirty houses, but with one or two exceptions, they seem all to have been built in the sixteenth century. *Melangés tirés, &c.* Even in that age, defence was naturally an object in constructing a French mansion-house; and where defence is to be regarded, splendour and convenience must give way. The name of *château* was not retained without meaning.

‡ *Melangés tirés, &c. ti. iii.* For the prosperity and downfall of Jacques Cœur, see Villaret, t. xvi. p. 11.; but more especially *Mém. de l'Acad. des Insc. t. xx. p. 509.*

ties which France endured before the expulsion of the English must have retarded this eminent branch of national improvement.

Even in Italy, where from the size of her cities, and social refinements of her inhabitants, greater elegance and splendour in building were justly to be expected, the domestic architecture of the middle ages did not attain any perfection. In several towns the houses were covered with thatch, and suffered consequently from destructive fires. Costanzo, a Neapolitan historian near the end of the sixteenth century, remarks the change of manners that had occurred since the reign of Joanna II. one hundred and fifty years before. The great families under the queen expended all their wealth on their retainers, and placed their chief pride in bringing them into the field. They were ill lodged, not sumptuously clothed, not luxurious in their tables. The house of Caracciolo, high steward of that princess, one of the most powerful subjects that ever existed, having fallen into the hands of persons incomparably below his station, had been enlarged by them, as insufficient for their accomodation.* If such were the case in the city of Naples so late as the beginning of the fifteenth century, we may guess how mean were the habitations in less polished parts of Europe.

The two most essential improvements in architecture during this period, one of which had been missed by the sagacity of Greece and Rome, were chim-

* Giannone, Ist. di Napoli, t. iii. p. 280.

neys and glass-windows. Nothing apparently can be more simple than the former ; yet the wisdom of ancient times had been content to let the smoke escape by an aperture in the centre of the roof; and a discovery of which Vitruvius had not a glimpse, was made, perhaps in this country, by some forgotten semi-barbarian. About the middle of the fourteenth century, the use of chimneys is distinctly mentioned in England and in Italy ; but they are found in several of our castles which bear a much older date.* This country seems to have lost very early the art of making glass, which was preserved in France, whence artificers were brought into England to furnish the windows of some new churches in the se-

* Muratori, *Antich. Ital. Dissert.* 25. p. 390. Beckman, in his history of Inventions, vol. i. a work of very great research, cannot trace any explicit mention of chimneys beyond the writings of John Villani, wherein however they are not noticed as a new invention. Piers Plowman, a few years later than Villani, speaks of a "chambre with a chimney," in which rich men usually dined. But in the account-book of Bolton-Abbey, under the year 1311, there is a charge *pro faciendo camino* in the rectory-house of Gargrave. Whitaker's *Hist. of Craven*, p. 331. This may, I think, have been only an iron stove or fire-pan; though Dr. W. without hesitation translates it a chimney. However, Mr. King, in his observations on ancient castles, *Archæol.* vol. vi. and Mr. Strutt, in his *View of Manners*, vol. i. describes chimneys in castles of a very old construction. That at Conisborough in Yorkshire is peculiarly worthy of attention, and carries back this important invention to a remote antiquity. Chimneys are still more modern in France; and seem, according to Paulmy, to have come into common use since the middle of the seventeenth century. *Jadis nos pères n'voient qu'un unique chauffoir, qui étoit commun à toute une famille, et quelquefois à plusieurs.* t. iii. p. 133. In another place, however, he says; *Il paraît que les tuyaux de cheminées étoient déjà très en usage en France.* t. xxxi. p. 232.

venth century.* It is said that in the reign of Henry III., few ecclesiastical buildings had glazed windows.† Suger, however, a century before, had adorned his great work, the abbey of St. Denis, with windows not only glazed, but painted;‡ and I presume that other churches of the same class, both in France and England, especially after the lancet-shaped window had yielded to one of ampler dimensions, were generally decorated in a similar manner. Yet glass is said not to have been employed in the domestic architecture of France before the fourteenth century;§ and its introduction into England was probably by no means earlier. Nor indeed did it come into general use during the period of the middle ages. Glazed windows were considered as moveable furniture, and probably bore a high price. When the earls of Northumberland, as late as the reign of Elizabeth, left Alnwick Castle, the windows were taken out of their frames, and carefully laid by.||

But if the domestic buildings of the fifteenth century would not seem very spacious or convenient at present, far less would this luxurious generation be content with their internal accommodations. A gentleman's house containing three or four beds was extraordinarily well provided; few probably had

* Du Cange, v. Vitreæ. Bentham's History of Ely, p. 22.

† Matt. Paris. Vitæ. Abbatum St. Alb. p. 122.

‡ Recueil des Hist. t. xii. p. 101.

§ Paulmy, t. iii. p. 132. Villaret, t. xi p. 141. Macpherson, p. 679.

|| Northumberland Household Book, preface, p. 16. Bishop Percy says, on the authority of Harrison, that glass was not commonly used in the reign of Henry VIII.

more than two. The walls were commonly bare, without wainscot or even plaster ; except that some great houses were furnished with hangings, and that perhaps hardly so soon as the reign of Edward IV. It is unnecessary to add, that neither libraries of books nor pictures could have found a place among furniture. Silver plate was very rare, and hardly used for the table. A few inventories of furniture that still remain exhibit a miserable deficiency.* And this was incomparably greater in private gentlemen's houses than among citizens, and especially foreign merchants. We have an inventory of the goods belonging to Contarini, a rich Venetian trader, at his house in St. Botolph's Lane, A. D. 1481. There appear to have been not less than ten beds, and glass windows are especially noticed as moveable furniture. No mention however is made of chairs or looking-glasses.† If we compare this account, however

* See some curious valuations of furniture and stock in trade at Colchester in 1296 and 1301. Eden's *Introduct. to State of the Poor*, p. 20. and 25., from the rolls of parliament. A carpenter's stock was valued at a shilling, and consisted of five tools. Other tradesmen were almost as poor ; but a tanner's stock, if there is no mistake, was worth £9 17s. 10d. more than ten times any other. Tanners were principal tradesmen, the chief part of dress being made of leather. A very few silver cups and spoons are the only articles of plate ; and as the former are valued but at one or two shillings, they had, I suppose, but a little silver on the rim.

† Nicholl's *Illustrations*, p. 119. In this work, among several interesting facts of the same class, we have another inventory of the goods of " John Port, late the king's servant," who died about 1524 ; he seems to have been a man of some consideration and probably a merchant. The house consisted of a hall, parlour, buttery, and kitchen with two chambers, and one smaller on the floor above ; a napery, or linen room, and three

trifling in our estimation, with a similar inventory of furniture in Skipton Castle, the great honour of the earls of Cumberland, and among the most splendid mansions of the north, not at the same period, for I have not found any inventory of a nobleman's furniture so ancient, but in 1572, after almost a century of continual improvement, we shall be astonished at the inferior provision of the baronial residence. There were not more than seven or eight beds in this great castle; nor had any of the chambers either chairs, glasses or carpets.* It is in this sense, probably, that we must understand Æneas Sylvius, if he meant any thing more than to express a traveller's

garrets, besides a shop, which was probably detached. There were five bedsteads in the house, and on the whole a great deal of furniture for those times; much more than I have seen in any other inventory. His plate is valued at £.94; his jewels at £.23; his funeral expenses at £.73 6s. 8d. p. 119.

* Whitaker's Hist. of Craven, p. 289. A better notion of the accommodations usual in the rank immediately below may be collected from two inventories published by Strutt, one of Mr. Fermor's house at Easton, the other Sir Adrian Foscawe's. I have mentioned the size of these gentlemen's houses already. In the former, the parlour had wainscot, a table and a few chairs: the chambers above had two best beds, and there was one servant's bed; but the inferior servants had only mattresses on the floor. The best chambers had window shutters and curtains. Mr. Fermor, being a merchant, was probably better supplied than the neighbouring gentry. His plate however consisted of only sixteen spoons, and a few goblets and ale pots. Sir Adrian Foscawe's opulence appears to have been greater; he had a service of silver plate, and his parlour was furnished with hangings. This was in 1539; it is not to be imagined that a knight of the shire a hundred years before would have rivalled even this scanty provision of moveables. Strutt's View of Manners, vol. iii. p. 63. These details, trifling as they may appear, are absolutely necessary in order to give an idea with some precision of a state of national wealth so totally different from the present.

discontent, when he declares that the kings of Scotland would rejoice to be as well lodged as the second class of citizens at Nuremburgh.* Few burghers of that town had mansions, I presume, equal to the palaces of Dumferlin or Stirling, but it is not unlikely that they were better furnished.

In the construction of farm-houses and cottages, especially the latter, there have probably been fewer changes; and those it would be more difficult to follow. No building of this class can be supposed to exist of the antiquity to which the present work is confined; and I do not know that we have any document as to the inferior architecture of England, so valuable as one which M. de Paulmy has quoted for that of France, though perhaps more strictly applicable to Italy, an illuminated manuscript of the fourteenth century, being a translation of Crescentio's work on agriculture, illustrating the customs, and, among other things, the habitations of the agricultural class. According to Paulmy, there is no other difference between an ancient and a modern farm-house, than arises from the introduction of tiled roofs.† In the original work of Crescentio, a native of Bologna, who composed this treatise on rural affairs about the year 1300, an Italian farm-house, when built, at least according to his plan, appears to have been commodious both in size and arrangement.‡

* Cuperent tam egregiè Scotorum reges quàm mediocres Nurembergæ cives habitare. Æn. Sylv. apud Schmidt, Hist. des Allem. t. v. p. 510.

† t. iii. p. 127.

‡ Crescentius in Commodum Ruralium. (Lovaniæ, absque

Cottages in England seem to have generally consisted of a single room without division of stories. Chimneys were unknown in such dwellings till the early part of Elizabeth's reign, when a very rapid and sensible improvement took place in the comforts of our yeomanry and cottagers.*

It must be remembered, that I have introduced this disadvantageous representation of civil architecture, as a proof of general poverty and of backwardness in the refinements of life. Considered in its higher departments, that art is the principal boast of the middle ages. The common buildings, especially those of a public kind, were constructed with skill and attention to durability. The castellated style displays these qualities in greater perfection; the means are well adapted to their objects, and its imposing grandeur, though chiefly resulting no doubt from massiveness and historical association, sometimes indicates a degree of architectural genius in the conception. But the most remarkable works of this art are the religious edifices erected in the twelfth and three following centuries. These structures, uniting sublimity in general composition with the beauties of variety and form, intricacy of parts,

anno). This old edition contains many coarse wooden cuts, possibly taken from the illuminations which Paulmy found in his manuscript.

* Harrison's account of England, prefixed to Holingshed's Chronicles. Chimneys were not used in the farm-houses of Cheshire till within forty years of the publication of King's Vale-royal, (1656); the fire was in the midst of the house, against a hob of clay, and the oxen lived under the same roof. Whitaker's Craven, p. 334.

skilful or at least fortunate effects of shadow and light, and in some instances with extraordinary mechanical science, are naturally apt to lead those antiquaries who are most conversant with them into too partial estimates of the times wherein they were founded. They certainly are accustomed to behold the fairest side of the picture. It was the favourite and most honourable employment of ecclesiastical wealth, to erect, to enlarge, to repair, to decorate cathedral and conventual churches. An immense capital must have been expended upon these buildings in England between the conquest and the reformation. And it is pleasing to observe how the seeds of genius, hidden as it were under the frost of that dreary winter, began to bud to the first sunshine of encouragement. In the darkest period of the middle ages, especially after the Scandinavian incursions into France and England, ecclesiastical architecture, though always far beyond any other art, bespoke the rudeness and poverty of the times. It began towards the latter part of the eleventh century, when tranquillity, at least from foreign enemies, was restored, and some degree of learning reappeared, to assume a more noble appearance. The Anglo-Norman cathedrals were perhaps as much distinguished above other works of man in their own age, as the more splendid edifices of a later period. The science manifested in them is not however very great; and their style, though by no means destitute of lesser beauties, is upon the whole an awkward imitation of Roman architecture, or per-

haps more immediately of the Saracenic buildings in Spain, and those of the lower Greek empire.* But about the middle of the twelfth century, this manner began to give place to what is improperly denominated the Gothic architecture;† of which the

* The Saracenic architecture was once conceived to have been the parent of the Gothic. But the pointed arch does not occur, I believe, in any Moorish buildings; while the great mosque of Cordova, built in the eighth century, resembles, except by its superior beauty and magnificence, one of our oldest cathedrals; the nave of Gloucester, for example, or Durham. Even the vaulting is similar, and seems to indicate some imitation, though perhaps of a common model. Compare *Archæologia*, vol. xvii. plate 1. and 2. with Murphy's *Arabian antiquities*, plate 5. The pillars indeed at Cordova are of the Corinthian order, perfectly executed, if we may trust the engraving, and the work, I presume, of Christian architects; while those of our Anglo-Norman cathedrals are generally an imitation of the Tuscan, the builders not venturing to trust their roofs to a more slender support, though Corinthian foliage is common enough in smaller ornamental columns. In fact, the Roman architecture is universally acknowledged to have produced what we call the Saxon or Norman; but it is remarkable that it should have been adopted, with no variation but that of the singular horse-shoe arch, by the Moors of Spain.

The Gothic, or pointed arch, though very uncommon in the genuine Saracenic of Spain and the Levant, may be found in some prints from Eastern buildings; and is particularly striking in the façade of the great mosque at Lucknow, in Salt's designs for Lord Valentia's Travels. The pointed-arch buildings in the Holy Land have all been traced to the age of the Crusades. Some arches, if they deserve the name, that have been referred to this class, are not pointed by their construction, but rendered such by cutting off and hollowing the projections of horizontal stones.

† Gibbon has asserted, what might justify this appellation, that "the image of Theodoric's palace at Verona still extant on a coin, represents the oldest and most authentic model of Gothic architecture." vol. vii. p. 33. For this he refers to Maffei, *Verona Illustrata*, p. 31. where we find an engraving, not indeed of a coin, but of a seal; the building represented on

pointed arch, formed by the segments of two intersecting semicircles, struck from points equidistant from the centre of a common diameter, has been deemed the essential characteristic. We are not concerned at present to inquire, whether this style originated in France or Germany, Italy or England, since it was certainly almost simultaneous in all these countries,* nor from what source it was de-

which is in a totally dissimilar style. The following passage in Cassiodorus, for which I am indebted to M. Ginguené, *Hist. Littér. de l'Italie*, t. i. p. 55. would be more to the purpose; *Quid dicamus columnarum junceam proceritatem? moles illas sublimissimas fabricarum quasi quibusdam erectis hastilibus contineri.* These columns of reedy slenderness, so well described by *juncea proceritas*, are said to be found in the cathedral of Montreale in Sicily, built in the eighth century. Knight's *Principles of Taste*, p. 162. They are not however sufficient to justify the denomination of Gothic, which is usually confined to the pointed arch style.

* The famous abbot Suger, minister of Louis VI., rebuilt St. Denis about 1140. The cathedral of Laon is said to have been dedicated in 1114. *Hist. Littéraire de la France*, t. ix. p. 220. I do not know in what style the latter of these churches is built, but the former is, or rather was, Gothic. Notre Dame at Paris was begun soon after the middle of the twelfth century, and completed under St. Louis. *Mélanges tirés d'une grande bibliothèque*, t. xxxi. p. 108. In England, the earliest specimen I have seen of pointed arches is in a print of St. Botolph's Priory at Colchester, said by Strutt to have been built in 1110. *View of Manners*, vol. i. plate 30. These are apertures formed by excavating the space contained by the intersection of semi-circular, or Saxon arches; which are perpetually disposed, by way of ornament, on the outer as well as inner surface of old churches, so as to cut each other, and consequently to produce the same figure of a Gothic arch, which the diagram of the first proposition in Euclid presents; and, if there is no mistake in the date, they are probably among the most ancient of that style in Europe. Those at the church of St. Cross near Winchester are of the reign of Stephen; and generally speaking, the pointed style, especially in vaulting, the most important object in the construction

rived; a question of no small difficulty. I would only venture to remark, that whatever may be thought of the origin of the pointed arch, for which there is more than one mode of accounting, we must perceive a very oriental character in the vast profusion of ornament, especially on the exterior surface, which is as distinguishing a mark of Gothic buildings as their arches, and contributes in an eminent degree both to their beauties and their defects. This indeed is rather applicable to the later than the earlier stage of architecture, and rather to continental than English churches. Amiens is in a far more florid style than Salisbury, though a contemporary structure. The Gothic species of architecture is generally supposed to have reached its perfection, considered as an object of taste, by the middle of the fourteenth century, or at least to have lost something of its excellence by the corresponding part of the next age; an effect of its early and rapid cultivation, since arts appear to have, like individuals, their natural progress and decay. The mechanical execution however continued to improve, and is so far beyond the apparent intellectual powers of those times, that some have ascribed the principal ecclesiastical structures to the fraternity of free-masons; depositaries of a concealed and traditionary science.

of a building, is not considered as older than Henry II. The nave of Canterbury cathedral, of the erection of which by a French architect about 1176, we have a full account in Ger-vase, (*Twysden, Decem Scriptores, col. 1289.*) and the Temple church, dedicated in 1183, are the most ancient English buildings altogether in the Gothic manner.

There is probably some ground for this opinion; and the earlier archives of that mysterious association, if they existed, might illustrate the progress of Gothic architecture, and perhaps reveal its origin. The remarkable change into this new style, that was almost contemporaneous in every part of Europe, cannot be explained by any local circumstances, or the capricious taste of a single nation.*

It would be a pleasing task to trace with satisfactory exactness the slow, and almost perhaps insensible progress of agriculture and internal improvement during the latter period of the middle ages. But no diligence could recover the unrecorded history of a single village; though considerable attention has of late been paid to this interesting subject by those antiquaries, who, though sometimes affecting to despise the lights of modern philosophy, are unconsciously guided by their effulgence. I have already adverted to the wretched condition of agriculture during the prevalence of feudal tenures, as well as

* The curious subject of free-masonry has unfortunately been treated only by panegyrists or calumniators, both equally mendacious. I do not wish to pry into the mysteries of the craft; but it would be interesting to know more of their history during the period when they were literally architects. They are charged by an act of parliament, 3 H. VI. c. 1. with fixing the price of their labour in their annual chapters, contrary to the statute of labourers, and such chapters are consequently prohibited. This is their first persecution; they have since undergone others, and are perhaps reserved for still more. It is remarkable, that masons were never legally incorporated, like other traders; their bond of union being stronger than any charter. The article Masonry in the *Encyclopædia Britannica*, is worth reading.

before their general establishment.* Yet even in the least civilized ages, there were not wanting partial encouragements to cultivation, and the ameliorating principle of human industry, struggled against destructive revolutions and barbarous disorder. The devastation of war from the fifth to the eleventh century rendered land the least costly of all gifts, though it must ever be the most truly valuable and permanent. Many of the grants to monasteries, which strike us as enormous, were of districts absolutely wasted, which would probably have been reclaimed

* I cannot resist the pleasure of transcribing a lively and eloquent passage from Dr. Whitaker. "Could a curious observer of the present day carry himself nine or ten centuries back, and ranging the summit of Pendle survey the forked vale of Calder on one side, and the bolder margins of Ribble and Hadder on the other, instead of populous towns and villages, the castle, the old tower-built house, the elegant modern mansion, the artificial plantation, the enclosed park and pleasure-ground, instead of uninterrupted inclosures which have driven sterility almost to the summit of the fells, how great must then have been the contrast, when, ranging either at a distance, or immediately beneath, his eye must have caught vast tracts of forest-ground stagnating with bog or darkened by native woods, where the wild ox, the roe, the stag, and the wolf, had scarcely learned the supremacy of man, when, directing his view to the intermediate spaces, to the windings of the vallies, or the expanse of plain beneath, he could only have distinguished a few insulated patches of culture, each encircling a village of wretched cabbins, among which would still be remarked one rude mansion of wood, scarcely equal in comfort to a modern cottage, yet then rising proudly eminent above the rest, where the Saxon lord, surrounded by his faithful cotarii, enjoyed a rude and solitary independence, owning no superior but his sovereign." Hist. of Whalley, p. 133. About a fourteenth part of this parish of Whalley was cultivated at the time of Domesday. This proportion however, would by no means hold in the counties south of Trent.

by no other means. We owe the agricultural restoration of great part of Europe to the monks. They chose, for the sake of retirement, secluded regions which they cultivated with the labour of their hands.* Several charters are extant, granted to convents, and sometimes to laymen, of lands which they had recovered from a desert condition, after the ravages of the Saracens.† Some districts were allotted to a body of Spanish colonists, who emigrated, in the reign of Louis the Debonair, in search of a Christian sovereign.‡ Nor is this the only instance of agricultural colonies. Charlemagne transplanted part of his conquered Saxons into Flanders, a country at that time almost unpeopled; and at a much later period, there was a remarkable reflux from the same country, or rather from Holland, to

* “Of the Anglo-Saxon husbandry, we may remark,” says Mr. Turner, “that Domesday Survey gives us some indication that the cultivation of the church lands was much superior to that of any other order of society. They have much less wood upon them, and less common of pasture; and what they had appears often in smaller and more irregular pieces; while their meadow was more abundant, and in more numerous distributions.” *Hist. of Anglo-Saxons*, vol. ii. p. 167.

† Thus, in *Marca Hispanica*, Appendix, p. 770. we have a grant from Lothaire I. in 834 to a person and his brother of lands which their father, *ab eremo in Septimaniâ trahens*, had possessed by a charter of Charlemagne. See too p. 773. and other places. Du Cange, v. *Eremus*, gives also a few instances.

‡ Du Cange, v. *Aprisio*. Baluze, *Capitularia*, t. i. p. 549. They were permitted to decide petty suits among themselves, but for more important matters were to repair to the county-court. A liberal policy runs through the whole charter. See more on the same subject. *id.* p. 569.

the coasts of the Baltic sea. In the twelfth century, a multitude of Dutch colonists settled along the whole line between the Ems and the Vistula. They obtained grants of uncultivated land on condition of fixed rents, and were governed by their own laws under magistrates of their election.*

There cannot be a more striking proof of the low condition of English agriculture in the eleventh century, than is exhibited by Domesday book. Though almost all England had been partially cultivated, and we find nearly the same manors, except in the north, which exist at present, yet the value and extent of cultivated ground are inconceivably small. With every allowance for the inaccuracies and partialities of those by whom that famous survey was completed,† we are lost in amazement at the

* I owe this fact to M. Heeren, *Essai sur l'Influence des Croisades*, p. 266. An inundation in their own country is supposed to have immediately produced this emigration; but it was probably successive, and connected with political as well as physical causes of greater permanencce. The first instrument in which they are mentioned is a grant from the Bishop of Hamburgh in 1106. This colony has affected the local usages, as well as the denominations of things and places along the northern coast of Germany. It must be presumed that a large proportion of the emigrants were diverted from agriculture to people the commercial cities which grew up in the twelfth century upon that coast.

† Ingulfus tells us that the commissioners were pious enough to favour Croyland, returning its possessions inaccurately, both as to measurement and value; *non ad verum pretium, nec ad verum spatium nostrum monasterium librabant misericorditer, præcavescentes in futurum regis exactionibus*, p. 79. I may just observe by the way, that Ingulfus gives the plain meaning of the word Domesday, which has been disputed.

constant recurrence of two or three carucates in demesne, with folklands occupied by ten or a dozen villeins, valued all together at forty shillings, as the return of a manor, which now would yield a competent income to a gentleman. If Domesday book can be considered as even approaching to accuracy in respect of these estimates, agriculture must certainly have made a very material progress in the four succeeding centuries. This however is rendered probable by other documents. Ingulfus, abbot of Croyland under the conqueror, supplies an early and interesting evidence of improvement. Richard de Rules, lord of Deeping, he tells us, being fond of agriculture, obtained permission from the abbey to inclose a large portion of marsh for the purpose of separate pasture, excluding the Welland by a strong dike, upon which he erected a town, and rendering those stagnant fens a garden of Eden.* In imitation of this spirited cultivator, the inhabitants of Spalding and some neighbouring villages, by a common resolution divided their marshes amongst them; when some converting them to tillage, some reserving them for meadow, others leaving them in pasture, found a rich soil for every purpose. The abbey of Croyland and villages in that neighbourhood followed this example.† This early instance of parochial

The book was so called, he says, *pro suâ generalitate omnia tenementa totius terræ integrè continente*; that is, it was as general and conclusive as the last judgment will be.

* 1 Gale xv. Script. p. 77.

† *Communi plebiscito viritim inter se diviserunt, et quidam*

inclosure is not to be overlooked in the history of social progress. By the statute of Merton, in the 20th of Henry III. the lord is permitted to approve, that is to inclose, the waste lands of his manor, provided he leave sufficient common of pasture for the freeholders. Higden, a writer who lived about the time of Richard II., says, in reference to the number of hydes and vills of England at the conquest, that by clearing of woods, and ploughing up wastes, there were many more of each in his age than formerly.* And it might be easily presumed, independently of proof, that woods were cleared, marshes drained, and wastes brought into tillage during the long period that the house of Plantagenet sat on the throne. From manerial surveys indeed and similar instruments, it appears that in some places there was nearly as much ground cultivated in the reign of Edward III. as at the present day. The condition of different counties however was very far from being alike, and in general, the northern and western parts of England were the most backward.†

The culture of arable land was very imperfect.

suas portiones agricolantes, quidam ad fœnum conservantes, quidam ut prius ad pasturam suorum animalium separaliter jacere permittentes, terram pinguem et uberem reppererunt.
p. 94.

* 1 Gale xv. Script. p. 201.

† A good deal of information upon the former state of agriculture will be found in Cullum's History of Hawsted. Blomefield's Norfolk is in this respect among the most valuable of our local histories. Sir Frederic Eden, in the first part of his excellent work on the poor, has collected several interesting facts.

Fleta remarks, in the reign of Edward I. or II., that unless an acre yielded more than six bushels of corn, the farmer would be a loser and the land yield no rent.* And Sir John Cullum, from very minute accounts, has calculated that nine or ten bushels were a full average crop on an acre of wheat. An amazing excess of tillage accompanied, and partly I suppose, produced this imperfect cultivation. In Hawsted, for example, under Edward I., there were thirteen or fourteen hundred acres of arable, and only forty-five of meadow ground. A similar disproportion occurs almost invariably in every account we possess.† This seems inconsistent with the low price of cattle. But we must recollect, that the common pasture, often the most extensive part of a manor, is not included, at least by any specific measurement, in these surveys. The rent of land differed of course materially; sixpence an acre seems to have been about the average for arable land in the thirteenth century,‡ though meadow was at double that sum. But the landlords were naturally solicitous to augment a revenue that became more and more inadequate to their luxuries. They grew attentive to agricultural concerns, and perceived

* l. ii. c. 8.

† Cullum, p. 100. 220. Eden's State of Poor, &c. p. 48. Whitaker's Craven, p. 45. 336.

‡ I infer this from a number of passages in Blomefield, Cullum, and other writers. Hearne says that an acre was often called *solidata terræ*; because the yearly rent of one *on the best land* was a shilling. Lib. Nig. Scacc. p. 31.

that a high rate of produce, against which their less enlightened ancestors had been used to clamour, would bring much more into their coffers than it took away. The exportation of corn had been absolutely prohibited. But the statute of the 15th Henry VI. c. 2. reciting that “on this account farmers, and others who use husbandry, cannot sell their corn but at a low price, to the great damage of the realm,” permits it to be sent any where but to the king’s enemies, so long as the quarter of wheat shall not exceed 6s. 8d. in value, or that of barley 3s. The price of wool was fixed in the thirty-second year of the same reign at a minimum, below which no person was suffered to buy it, though he might give more;* a provision neither wise nor equitable, but obviously suggested by the same motive. Whether the rents of land were augmented in any degree through these measures, I have not perceived; their great rise took place in the reign of Henry VIII., or rather afterwards.† The usual price of land under Edward IV. seems to have been ten years purchase.‡

It may easily be presumed that an English writer

* Rot. Parl. vol. v. p. 275.

† A passage in Bishop Latimer’s sermons, too often quoted to require repetition, shews that land was much underlet about the end of the fifteenth century. His father, he says, kept half a dozen husbandmen, and milked thirty cows, on a farm of three or four pounds a year. It is not surprising that he lived as plentifully as his son describes.

‡ Rymer, t. xii. p. 204.

can furnish very little information as to the state of agriculture in foreign countries. In such works relating to France as have fallen within my reach, I have found nothing satisfactory, and cannot pretend to determine, whether the natural tendency of mankind to ameliorate their condition had a greater influence in promoting agriculture, or the vices inherent in the actual order of society, and those public misfortunes to which that kingdom was exposed, in retarding it.* The state of Italy was far different; the rich Lombard plains, still more fertilized by irrigation, became a garden, and agriculture seems to have reached the excellence which it still retains. The constant warfare indeed of neighbouring cities is not very favourable to industry; and upon this account we might incline to place the greatest territorial improvement of Lombardy at an æra rather posterior to that of her republican government; but from this it primarily sprung; and without the subjugation of the feudal aristocracy, and that perpetual demand upon the fertility of the earth which an increasing population of citizens produced, the valley of the Po would not have yielded more to human labour than it had done for several preceding centuries.† Though Lombardy was extremely populous in the thirteenth and fourteenth centuries, she exported large quantities of

* Velly and Villaret scarcely mention the subject; and Le Grand merely tells us that it was entirely neglected; but the details of such an art even in its state of neglect might be interesting.

† Muratori, Dissert. 21.

corn.* The very curious treatise of Crescentius exhibits the full details of Italian husbandry about 1300, and might afford an interesting comparison to those who are acquainted with its present state. That state indeed in many parts of Italy displays no symptoms of decline. But whatever mysterious influence of soil or climate has scattered the seeds of death on the western regions of Tuscany had not manifested itself in the middle ages. Among uninhabited plains, the traveller is struck by the ruins of innumerable castles and villages, monuments of a time when pestilence was either unfelt, or had at least not forbid the residence of mankind.† Volterra, whose deserted walls look down upon that tainted solitude, was once a small, but free republic; Siena, round whom, though less depopulated, the malignant influence hovers, was once almost the rival of Florence. So melancholy and apparently irresistible a decline of culture and population through physical causes, as seems to have gradually overspread a large portion of Italy, has not perhaps been experienced in any other part of Europe, unless we except Iceland. But among the splendid and uniform advances of improvement, by which Europe has been distinguished for several centuries, neither Iceland, nor even the Maremmas of western Italy appear as more than dust in the balance.

The Italians of the fourteenth century seem to have paid some attention to an art, of which, both as

* Denina, l. xi. c. 7.

† Denina, *ibid.* Chateaubieux, *Lettres sur l'Italie*, t. i.

related to cultivation and to architecture, our own forefathers were almost entirely ignorant. Crescentius dilates upon horticulture, and gives a pretty long list of herbs both esculent and medicinal.* His notions about the ornamental department are rather beyond what we should expect, and I do not know that his scheme of a flower-garden could be much amended. His general arrangements, which are minutely detailed with evident fondness for the subject, would of course appear too formal at present; yet less so than those of subsequent times; and though acquainted with what is called the topiary art, that of training or cutting trees into regular figures, he does not seem to run into its extravagance. Regular gardens, according to Paulmy, were not made in France till the sixteenth or seventeenth century;† yet one is said to have existed at the Louvre, of much older construction.‡ England, I believe, had nothing of the ornamental kind, unless it were some trees regularly disposed in the orchard of a monastery. Even the common horticultural art for culinary purposes, though not entirely neglected, since the produce of gardens is sometimes mentioned in ancient deeds, had not been cultivated with much attention.§ The esculent vegetables now most in use were introduced in the reign of Elizabeth, and some sorts a great deal later.

* l. vi.

† t. iii. p. 145.; t. xxxi. p. 258.

‡ De la Mare, *Traité de la Police*, t. iii. p. 380.

§ Eden's *State of Poor*, vol. i. p. 51.

I should leave this slight survey of œconomical history still more imperfect, were I to make no observation on the relative values of money. Without something like precision in our notions upon this subject, every statistical inquiry becomes a source of confusion and error. But considerable difficulties attend the discussion. These arise principally from two causes; the inaccuracy or partial representations of historical writers, on whom we are accustomed too implicitly to rely, and the change of manners, which renders a certain command over articles of purchase less adequate to our wants than it was in former ages.

The first of these difficulties is capable of being removed by a circumspect use of authorities. When this part of statistical history began to excite attention, which was hardly perhaps before the publication of Bishop Fleetwood's *Chronicon Preciosum*, so few authentic documents had been published with respect to prices, that enquirers were glad to have recourse to historians, even when not contemporary, for such facts as they had thought fit to record. But these historians were sometimes too distant from the times concerning which they wrote, and too careless in their general character, to merit much regard; and even when contemporary, were often credulous, remote from the concerns of the world, and, at the best, more apt to register some extraordinary phænomenon of scarcity or cheapness, than the average rate of pecuniary dealings. The one ought, in my opinion,

to be absolutely rejected as testimonies, the other to be sparingly and diffidently admitted.* For it is no longer necessary to lean upon such uncertain witnesses. During the last century a very laudable industry has been shewn by antiquaries in the publication of account-books belonging to private persons, registers of expenses in convents, returns of markets, valuations of goods, tavern-bills, and in short every document, however trifling in itself, by which this important subject can be illustrated. A sufficient number of such authorities, proving the ordinary tenor of

* Sir F. Eden, whose table of prices, though capable of some improvement, is perhaps the best that has appeared, would, I think, have acted better, by omitting all references to mere historians, and relying entirely on regular documents. I do not however include local histories, such as the Annals of Dunstaple, when they record the market-prices of their neighbourhood, in respect of which the book last mentioned is almost in the nature of a register. Dr. Whitaker remarks the inexactness of Stowe, who says that wheat sold in London, A. D. 1514, at 20s. a quarter; whereas it appears to have been at 9s. in Lancashire, where it was always dearer than in the metropolis. Hist. of Whalley, p. 97. It is an odd mistake, into which Sir F. Eden has fallen, when he asserts and argues on the supposition that the price of wheat fluctuated, in the thirteenth century, from 1s. to 6l. 8s. a quarter. vol. i. p. 18. Certainly, if any chronicler had mentioned such a price as the latter, equivalent to 150l. at present, we should either suppose that his text was corrupt, or reject it as an absurd exaggeration. But, in fact, the author has, through haste, mistaken 6s. 8d. for 6l. 8s. as will appear by referring to his own table of prices, where it is set down rightly. It is observed by Mr. Macpherson, a very competent judge, that the arithmetical statements of the best historians of the middle ages are seldom correct, owing partly to their neglect of examination, and partly to blunders of transcribers. Annals of Commerce, vol. i. p. 423.

prices, rather than any remarkable deviations from it, are the true basis of a table, by which all changes in the value of money should be measured. I have little doubt, but that such a table might be constructed from the data we possess with tolerable exactness, sufficient at least to supersede one often quoted by political œconomists, but which appears to be founded upon very superficial and erroneous inquiries.*

It is by no means required that I should here offer such a table of values, which, as to every country except England, I have no means of constructing, and which, even as to England, would be subject to many difficulties. But a reader, unaccustomed to these investigations, ought to have some assistance in comparing the prices of ancient times with those of his own. I will therefore, without attempting to ascend very high, for we have really no sufficient data as to the period immediately subsequent to the conquest, much less that which preceded, endeavour at a sort of approximation for the thirteenth and fifteenth centuries. In the reigns of Henry III. and Edward I., previously to the first debasement of the coin by the latter in 1301, the ordinary price of a quarter of

* The table of comparative values by Sir George Shuckburgh, (*Philosoph. Transact.* for 1798, p. 196.) is strangely incompatible with every result to which my own reading has led me. It is the hasty attempt of a man accustomed to different studies; and one can neither pardon the presumption of obtruding such a slovenly performance on a subject where the utmost diligence was required, nor the affectation with which he apologizes for "descending from the dignity of philosophy."

wheat appears to have been about four shillings, and that of barley and oats in proportion. A sheep was rather sold high at a shilling, and an ox might be reckoned at ten or twelve.* The value of cattle is of course dependent upon their breed and condition; and we have unluckily no early account of butcher's meat; but we can hardly take a less multiple than about thirty for animal food, and eighteen or twenty for corn, in order to bring the prices of the thirteenth century to a level with those of the present day.† Combining the two, and setting the comparative dearness of cloth against the cheapness of fuel, and many other articles, we may perhaps consider any given sum under Henry III. and Edward I. as equivalent in general command over commodities to about twenty-four or twenty-five times that nominal value at present. Under Henry VI., the coin had lost one-third of its weight in silver, which caused a proportional increase of money prices;‡ but, so far as

* Blomefield's History of Norfolk, and Sir J. Cullum's of Hawsted, furnish several prices even at this early period. Most of them are collected by Sir F. Eden. Fleta reckons four shillings the average price of a quarter of wheat in his time. l. ii. c. 84. This writer has a digression on agriculture, whence however less is to be collected than we should expect.

† The fluctuations of price have unfortunately been so great of late years, that it is almost as difficult to determine one side of our equation as the other. Any reader, however, has it in his power to correct my proportions, and adopt a greater or less multiple, according to his own estimate of current prices, or the changes that may take place from the time this is written.

‡ I have sometimes been surprized at the facility with which prices adjusted themselves to the quantity of silver contained in the current coin, in ages which appear too ignorant

I can perceive, there had been no diminution in the value of that metal. We have not much information as to the fertility of the mines which supplied Europe during the middle ages; but it is probable that the drain of silver towards the East, joined to the ostentatious splendour of courts, might fully absorb the usual produce. By the statute 15 H. VI. c. 2. the price up to which wheat might be exported is fixed at 6s. 8d., a point no doubt about the average and the private documents of that period, which are sufficiently numerous, lead to a similar result.* Six-

and too little commercial for the application of this mercantile principle. But the extensive dealings of the Jewish and Lombard usurers, who had many debtors in almost all parts of the country, would of itself introduce a knowledge, that silver, not its stamp, was the measure of value. I have mentioned in another place, (vol. i.) the heavy discontents excited by this debasement of the coin in France; but the more gradual enhancement of nominal prices in England seems to have prevented any strong manifestations of a similar spirit at the successive reductions in value which the coin experienced from the year 1300. The connexion however between commodities and silver was well understood. Wykes, an annalist of Edward I.'s age, tells us, that the Jews clipped our coin, till it retained hardly half its due weight, the effect of which was a general enhancement of prices, and decline of foreign trade: *Mercatores transmarini cum mercimoniis suis regnum Angliæ minus solito frequentabant; necnon quod omnimoda venalium genera incomparabiliter solito fuerunt cariõra.* 2 Gale xv. Script. p. 107. Another chronicler of the same age complains of bad foreign money, alloyed with copper; *nec erat in quatuor aut quinque ex iis pondus unius denarii argenti Eratque pessimum sæculum pro tali monetâ, et fiebant commutationes plurimæ in emptione et venditione rerum.* Edward, as the historian informs us, bought in this bad money at a rate below its value, in order to make a profit; and fined some persons who interfered with his traffic. W. Hemingford, ad ann. 1299.

* These will chiefly be found in Sir F. Eden's table of prices;

teen will be a fair multiple, when we would bring the general value of money in this reign to our present standard.*

But after ascertaining the proportional values of money at different periods by a comparison of prices in several of the chief articles of expenditure, which is the only fair process, we shall sometimes be surprized at incidental facts of this class which seem

the following may be added from the account-book of a convent between 1415 and 1425. Wheat varied from 4*s.* to 6*s.*—barley from 3*s.* 2*d.* to 4*s.* 10*d.*—oats from 1*s.* 8*d.* to 2*s.* 4*d.*—oxen from 12*s.* to 16*s.*—sheep from 1*s.* 2*d.* to 1*s.* 4*d.*—butter $\frac{3}{4}$ *d.* per lb. eggs twenty-five for 1*d.*—cheese $\frac{1}{2}$ *d.* per lb. Lansdowne MSS. vol. i. no. 28 and 29. These prices do not always agree with those given in other documents of equal authority in the same period; but the value of provisions often varied in different counties, and still more so in different seasons of the year.

* I insert the following comparative table of English money from Sir Frederic Eden. The unit, or present value, refers of course to that of the shilling before the last coinage.

		Value of pound sterling present money..		Proportion.
Conquest,	1066	2	18	$1\frac{1}{2}$ 2.906
28 E. I.	1300	2	17	5 2.871
18 E. III.	1344	2	12	$5\frac{1}{4}$ 2.622
20 E. III.	1346	2	11	8 2.583
27 E. III.	1353	2	6	6 2.325
13 H. IV.	1412	1	18	9 1.937
4 E. IV.	1464	1	11	0 1.55
18 H. VIII.	1527	1	7	$6\frac{3}{4}$ 1.378
34 H. VIII.	1543	1	3	$3\frac{1}{4}$ 1.163
36 H. VIII.	1545	0	13	$11\frac{1}{2}$ 0.698
37 H. VIII.	1546	0	9	$3\frac{3}{4}$ 0.466
5 E. VI.	1551	0	4	$7\frac{3}{4}$ 0.232
6 E. VI.	1552	1	0	$6\frac{3}{4}$ 1.028
1 Mary	1553	1	0	$5\frac{3}{4}$ 1.024
2 Eliz.	1560	1	0	8 1.033
43 Eliz.	1601	1	0	0 1.000

irreducible to any rule. These difficulties arise not so much from the relative scarcity of particular commodities, which it is for the most part easy to explain, as from the change in manners and in the usual mode of living. We have reached in this age so high a pitch of luxury, that we can hardly believe or comprehend the frugality of ancient times; and have in general formed mistaken notions as to the habits of expenditure which then prevailed. Accustomed to judge of feudal and chivalrous ages by works of fiction, or by historians who embellish their writings with accounts of occasional festivals and tournaments, and sometimes inattentive enough to transfer the manners of the seventeenth to the fourteenth century, we are not at all aware of the usual simplicity with which the gentry lived under Edward I. or even under Henry VI. They drank little wine; they had no foreign luxuries; they rarely or never kept male servants, except for husbandry; their horses, as we may guess by the price, were indifferent; they seldom travelled beyond their county. And even their hospitality must have been greatly limited, if the value of manors were really no greater than we find it in many surveys. Twenty-four seems a sufficient multiple when we would raise a sum mentioned by a writer under Edward I. to the same real value expressed in our present money, but an income of 10*l.* or 20*l.* was reckoned a competent estate for a gentleman; at least the lord of a single manor would seldom have enjoyed more. A knight who possessed 150*l.* per

annum passed for extremely rich.* Yet this was not equal in command over commodities to 4000*l.* at present. But this income was comparatively free from taxation, and its expenditure lightened by the services of his villeins. Such a person however must have been among the most opulent of country gentlemen. Sir John Fortescue speaks of five pounds a year as “a fair living for a yeoman,” a class of whom he is not at all inclined to diminish the importance.† So, when Sir William Drury, one of the richest men in Suffolk, bequeaths in 1493, fifty marks to each of his daughters, we must not imagine that this was of greater value than four or five hundred pounds at this day, but remark the family pride, and want of ready money, which induced country gentlemen to leave their younger children in poverty.‡ Or, if we read that the expense of a scholar at the university in 1514 was but five pounds annually, we should err in supposing that he had the liberal accommodation which the present age deems indispensable, but consider how much could be afforded for about sixty pounds, which will be not far from the proportion. And what would a modern lawyer say to the following entry in the churchwarden’s accounts of St. Margaret, Westminster, for 1476: “Also paid to Roger Fylpott, learned in the law, for his counsel giving 3*s.* 8*d.*,”

* Macpherson’s Annals, p. 424, from Matt. Paris.

† Difference of Limited and Absolute Monarchy, p.

‡ Hist. of Hawsted, p. 141.

with four-pence for his dinner.”* Though fifteen times the fee might not seem altogether inadequate at present, five shillings would hardly furnish the table of a barrister, even if the fastidiousness of our manners would admit of his accepting such a dole. But this fastidiousness, which considers certain kinds of remuneration degrading to a man of liberal condition, did not prevail in those simple ages. It would seem rather strange that a young lady should learn needle-work and good-breeding in a family of superior rank, paying for her board; yet such was the laudable custom of the fifteenth and even sixteenth centuries, as we perceive by the Paston Letters, and later authorities.†

There is one very unpleasing remark which every one who attends to the subject of prices will be induced to make, that the labouring classes, especially those engaged in agriculture, were better provided with the means of subsistence in the reign of Edward III. or of Henry VI. than they are at present. In the fourteenth century, Sir John Cullum observes, a harvest man had four-pence a day, which enabled

* Nicholls's Illustrations, p. 2. One fact of this class did, I own, stagger me. The great earl of Warwick writes to a private gentleman, Sir Thomas Tudenham, begging the loan of ten or twenty pounds to make up a sum he had to pay. Paston Letters, vol. i. p. 84. What way shall we make this commensurate to the present value of money? But an ingenious friend suggested, what I do not question is the case, that this was one of many letters addressed to the adherents of Warwick, in order to raise by their contributions a considerable sum. It is curious in this light, as an illustration of manners.

† Paston Letters, vol. i. p. 244. Cullum's Hawsted, p. 182.

him in a week to buy a comb of wheat; but to buy a comb of wheat, a man must now (1784) work ten or twelve days.* So, under Henry VI., if meat was at a farthing and a half the pound, which I suppose was about the mark, a labourer earning three-pence a day, or eighteen-pence in the week, could buy a bushel of wheat, at six shillings the quarter, and twenty-four pounds of meat for his family. A labourer at present, earning twelve shillings a week, can only buy half a bushel of wheat, at eighty shillings the quarter, and twelve pounds of meat at seven-pence. Several acts of parliament regulate the wages that might be paid to labourers of different kinds. Thus the statute of labourers, in 1350, fixes the wages of reapers during harvest at three-pence a day without diet, equal to five shillings at present; that of 23 H. VI. c. 12. in 1444, fixes the reaper's wages at five-pence, and those of common workmen in building at $3\frac{1}{2}d.$ equal to 6s. 8d. and 4s. 8d.; that of 11 H. VII. c. 22. in 1496, leaves the wages of labourers in harvest as before, but rather increases those of ordinary workmen. The yearly wages of a chief hind or shepherd by the act of 1444 were 1l. 4s. equivalent to about 20l., those of a common servant in husbandry, 18s. 4d. with meat and drink; they were somewhat augmented by the statute of 1496.† Yet, although these wages were regulated, as a maximum, by acts of parliament, which may naturally be supposed to have had a view rather towards diminishing

* Hist. of Hawsted, p. 258.

† See these rates more at length in Eden's State of the Poor, vol. i. p. 32, &c.

than enhancing the current rate, I am not fully convinced that they were not rather beyond it; private accounts at least do not always correspond with these statutable prices.* And it is necessary to remember, that the uncertainty of employment, natural to so imperfect a state of husbandry, must have diminished the labourer's means of subsistence. Extreme dearth, not more owing to adverse seasons than to improvident consumption, was frequently endured.† But after every allowance of this kind, I should find it difficult to resist the conclusion, that, however the labourer has derived benefit from the cheapness of manufactured commodities, and from many inventions of common utility, he is much inferior in ability to support a family to his ancestors three or four centuries ago. I know not why some have supposed that meat was a luxury seldom obtained by the labourer. Doubtless he could not have procured as much as he pleased. But, from the greater cheapness of cattle, as compared with corn, it seems to follow, that a more considerable portion of his ordinary diet consisted of animal food than at

* In the *Archæologia*, vol. xviii. p. 281. we have a bailiff's account of expenses in 1387, where it appears that a ploughman had sixpence a week, and five shillings a year, with an allowance of diet; which seems to have been only pottage. These wages are certainly not more than fifteen shillings a week in present value; which, though materially above the average rate of agricultural labour, is less so than some of the statutes would lead us to expect. Other facts may be found of a similar nature.

† See that singular book, *Piers Plowman's Vision*, p. 145. (Whitaker's edition,) for the different modes of living before and after harvest. The passage may be found in *Ellis's Specimens*, vol. i. p. 151.

present. It was remarked by Sir John Fortescue, that the English lived far more upon an animal diet than their rivals the French; and it was natural to ascribe their superior strength and courage to this cause.* I should feel much satisfaction in being convinced that no deterioration in the state of the labouring classes has really taken place; yet it cannot, I think, appear extraordinary to those who reflect, that the whole population of England, in the year 1377, did not much exceed 2,300,000 souls, about one-fifth of the results upon the last numeration, an increase with which that of the fruits of the earth cannot be supposed to have kept an even pace.†

The second head to which I referred the improvements of European society in the latter period of the middle ages comprehends several changes, not always connected with each other, which contributed to inspire a more elevated tone of moral sentiment, or at least to restrain the commission of crimes. But the general effect of these upon the human character is neither so distinctly to be traced, nor can it be arranged with so much attention to chronology as the progress of commercial wealth, or of the arts that de-

* Fortescue's *Difference between Abs. and Lim. Monarchy*. p. 19. The passages in Fortescue, which bear on his favourite theme, the liberty and consequent happiness of the English, are very important, and triumphantly refute those superficial writers who would make us believe that they were a set of beggarly slaves.

† Besides the books to which I have occasionally referred, Mr. Ellis's *Specimens of English Poetry*, vol. i. chap. 13. contain a short, but well selected digression on the private life of the English in the middling and lower ranks about the fifteenth century.

pend upon it. We cannot, from any past experience, indulge the pleasing vision of a constant and parallel relation between the moral and intellectual energies, the virtues and the civilization of mankind. Nor is any problem connected with philosophical history more difficult than to compare the relative characters of different generations, especially if we include a large geographical surface in our estimate. Refinement has its evils as well as barbarism; the virtues that elevate a nation in one century pass in the next to a different region; vice changes its form without losing its essence; the marked features of individual character stand out in relief from the surface of history, and mislead our judgment as to the general course of manners; while political revolutions and a bad constitution of government may always undermine or subvert the improvements to which more favourable circumstances have contributed. In comparing, therefore, the fifteenth with the twelfth century, no one would deny the vast increase of navigation and manufactures, the superior refinement of manners, the greater diffusion of literature. But should I assert that man had raised himself in the later period above the moral degradation of a more barbarous age, I might be met by the question, whether history bears witness to any greater excesses of rapine and inhumanity than in the wars of France and England under Charles VII., or whether the rough patriotism and fervid passions of the Lombards in the twelfth century were not better than the systematic treachery of their servile descendants three hundred years afterwards.

The proposition must therefore be greatly limited; yet we can scarcely hesitate to admit, upon a comprehensive view, that there were several changes during the four last of the middle ages, which must naturally have tended to produce, and some of which did unequivocally produce a meliorating effect, within the sphere of their operation, upon the moral character of society.

The first and perhaps the most important of these, was the gradual elevation of those whom unjust systems of polity had long depressed; of the people itself, as opposed to the small number of rich and noble, by the abolition or desuetude of domestic and prædial servitude, and by the privileges extended to corporate towns. The condition of slavery is indeed perfectly consistent with the observance of moral obligations; yet reason and experience will justify the sentence of Homer, that he who loses his liberty loses half his virtue. Those who have acquired, or may hope to acquire, property of their own, are most likely to respect that of others; those whom law protects as a parent are most willing to yield her a filial obedience; those who have much to gain by the good will of their fellow-citizens are most interested in the preservation of an honourable character. I have been led, in different parts of the present work, to consider these great revolutions in the order of society under other relations than that of their moral efficacy; and it will therefore be unnecessary to dwell upon them; especially as this efficacy is indeterminate, though, I think, unquestionable, and rather to be inferred from general

reflections, than capable of much illustration by specific facts.

We may reckon, in the next place, among the causes of moral improvement, a more regular administration of justice according to fixed laws, and a more effectual police. Whether the courts of judicature were guided by the feudal customs, or the Roman law, it was necessary for them to resolve litigated questions with precision and uniformity. Hence a more distinct theory of justice and good faith was gradually apprehended; and the moral sentiments of mankind were corrected, as on such subjects they often require to be, by clearer and better grounded inferences of reasoning. Again, though it cannot be said that lawless rapine was perfectly restrained even at the end of the fifteenth century, a sensible amendment had been every where experienced. Private warfare, the licensed robbery of feudal manners, had been subjected to so many modifications by the kings of France, and especially by St. Louis, that it can hardly be traced beyond the fourteenth century. In Germany and Spain it lasted longer; but the various associations for maintaining tranquillity in the former country had considerably diminished its violence before the great national measure of public peace adopted under Maximilian.* Acts of outrage com-

* Besides the German historians, see Du Cange, v. Gernerbium, for the confederacies in the empire, and Hermandatum for those in Castile. These appear to have been merely voluntary associations, and perhaps directed as much towards the prevention of robbery, as of what is strictly called private war. But no man can easily distinguish offensive war from

mitted by powerful men became less frequent as the executive government acquired more strength to chastise them. We read that St. Louis, the best of French kings, imposed a fine upon the lord of Vernon for permitting a merchant to be robbed in his territory between sunrise and sunset. For, by the customary law, though in general ill observed, the lord was bound to keep the roads free from depredators in the daytime, in consideration of the toll he received from passengers.* The same prince was with difficulty prevented from passing a capital sentence on Enguerrand de Coucy, a baron of France, for a murder.† Charles the Fair actually put to death a nobleman of Languedoc for a series of robberies, notwithstanding the intercession of the provincial nobility.‡ The towns established a police of their own for internal security, and rendered themselves formidable to the neigh-

robbery except by its scale; and where this was so considerably reduced, the two modes of injury almost coincide. In Aragon, there was a distinct institution for the maintenance of peace, the kingdom being divided into unions or juntas, with a chief officer, called *Supra-junctarius*, at their head. Du Cange, v. *Juncta*.

* Henault, *Abrégé Chronol. à l'an 1255*. The institutions of Louis IX. and his successors relating to police form a part, though rather a smaller part than we should expect from the title, of an immense work, replete with miscellaneous information, by Delamare, *Traité de la Police*, 4 vols. in folio. A sketch of them may be found in Velly, t. v. p. 349.; t. xviii. p. 437.

† Velly, t. v. p. 162., where this incident is told in an interesting manner from William de Nangis. Boulainvilliers has taken an extraordinary view of the king's behaviour. *Hist. de l'Ancien Gouvernement*, t. ii. p. 26. In his eyes princes and plebeians were made to be the slaves of a feudal aristocracy.

‡ Velly, t. viii. p. 132.

bouring plunderers. Finally, though not before the reign of Louis XI., an armed force was established for the preservation of police.* Various means were adopted in England to prevent robberies, which indeed were seldom perpetrated, as they were on the continent, by men of high condition. None of these perhaps had so much efficacy as the frequent sessions of judges under commissions of gaol delivery. But the spirit of this country has never brooked that coercive police which cannot exist without breaking in upon personal liberty by irksome regulations, and discretionary exercise of power; the sure instrument of tyranny, which renders civil privileges at once nugatory and insecure, and by which we should dearly purchase some real benefits connected with its slavish discipline.

I have some difficulty in adverting to another source of moral improvement during this period, the growth of religious opinions adverse to those of the established church, both on account of its great obscurity, and because many of these heresies were tainted by an excessive fanaticism. But they fixed themselves so deeply in the hearts of the inferior and more numerous classes, they bore, generally speaking, so immediate a relation to the state of manners, and they illustrate so much that more visible and eminent revolution which ultimately arose out of them in the sixteenth century, that I must reckon these among the most interesting phænomena in the progress of European society.

* Velly, t. xviii. p. 437.

Many ages elapsed, during which no remarkable instance occurs of a popular deviation from the prescribed line of belief; and pious Catholics console themselves by reflecting that their forefathers in those times of ignorance, slept at least the sleep of orthodoxy, and that their darkness was interrupted by no false lights of human reasoning.* But from the twelfth century this can no longer be their boast. An inundation of heresy broke in that age upon the church, which no persecution was able thoroughly to repress, till it finally overspread half the surface of Europe. Of this religious innovation we must seek the commencement in a different part of the globe. The Manicheans afford an eminent example of that durable attachment to a traditional creed, which so many ancient sects, especially in the east, have cherished through the vicissitudes of ages, in spite of persecution and contempt. Their plausible and widely extended system had been in early times connected with the name of Christianity, however incompatible with its doctrines and its history. After a pretty long obscurity, the Manichean theory revived with some modification in the western parts of Armenia, and was propagated in the eighth and ninth centuries by a sect denominated Paulicians. Their tenets are not to be collected with absolute certainty from the mouths of their adversaries, and no apology of their own survives. There seems however to be sufficient evidence that the Paulicians, though professing to

* Fleury, 3^{me} Discours sur l'Hist. Ecclés.

acknowledge and even to study the apostolical writings, ascribed the creation of the world to an evil deity, whom they supposed also to be the author of the Jewish law, and consequently rejected all the Old Testament. Believing with the ancient Gnostics, that our Saviour was clothed on earth with an impassive celestial body, they denied the reality of his death and resurrection.* These errors exposed them to a

* The most authentic account of the Paulicians is found in a little treatise of Petrus Siculus, who lived about 870, under Basil the Macedonian. He had been employed on an embassy to Tephrike, the principal town of these heretics, so that he might easily be informed, and, though he is sufficiently bigotted, I do not see any reason to question the general truth of his testimony, especially as it tallies so well with what we learn of the predecessors and successors of the Paulicians. They had rejected several of the Manichean doctrines, those, I believe, which were borrowed from the Oriental, Gnostic and Cabbalistic philosophy of emanation; and therefore readily condemned Manes, *προβυμῶς ἀναθεματίζουσι Μανηῆα*. But they retained his capital errors, so far as regarded the principle of dualism, which he had taken from Zerdusht's religion, and the consequences he had derived from it. Petrus Siculus enumerates six Paulician heresies. 1. They maintained the existence of two deities, the one evil, and the creator of this world, the other good, called *πάτερ ἐσθρανίος*, the author of that which is to come. 2. They refused to worship the Virgin, and asserted that Christ brought his body from Heaven. 3. They rejected the Lord's supper: 4. And the adoration of the cross. 5. They denied the authority of the Old Testament; but admitted the New, except the epistles of St. Peter, and, perhaps, the Apocalypse. 6. They did not acknowledge the order of priests.

There seems every reason to suppose, that the Paulicians, notwithstanding these mistakes, were endowed with sincere and zealous piety, and studious of the Scriptures. A Paulician woman asked a young man, if he had read the Gospels: he replied, that laymen were not permitted to do so, but only the clergy: *οὐκ ἐξέστιν ἡμῖν τοῖς κοσμικοῖς οὐδὲ λαῖα ἀναγίνωσκειν, εἰ μὴ τοῖς ἱερεῦσι μόνοις*. p. 57. A curious proof that the Scriptures were already forbidden in the Greek church, which, I am in-

long and cruel persecution, during which a colony of exiles was planted by one of the Greek emperors in Bulgaria.* From this settlement they silently propagated their Manichean creed over the western regions of Christendom. A large part of the commerce of those countries with Constantinople was carried on for several centuries by the channel of the Danube. This opened an immediate intercourse with the Paulicians, who may be traced up that river through Hungary and Bavaria, or sometimes taking the route of Lombardy, into Swisserland and France.† In the

clined to believe, notwithstanding the leniency with which Protestant writers have treated it, was always more corrupt and more intolerant than the Latin.

* Gibbon, c. 54. This chapter of the historian of the Decline and Fall upon the Paulicians appears to be accurate, as well as luminous, and is at least far superior to any modern work on the subject.

† It is generally agreed, that the Manicheans from Bulgaria did not penetrate into the west of Europe before the year 1000; and they seem to have been in small numbers till about 1140. We find them however early in the eleventh century. Under the reign of Robert in 1007 several heretics were burned at Orleans for tenets which are represented as Manichean. Velly, t. ii. p. 307. These are said to have been infected from Italy; and the heresy began to strike root in that country about the same time. Muratori, Dissert. 60. (*Antichità Italiane*, t. iii. p. 304.) The Italian Manicheans were generally called Paterini, the meaning of which word has never been explained. We find few traces of them in France at this time; but about the beginning of the twelfth century, Guibert, bishop of Soissons, describes the heretics of that city, who denied the reality of the death and resurrection of Jesus Christ, and rejected the sacraments. *Hist. Littéraire de la France*, t. x. p. 451. Before the middle of that age, the Cothari, Henriicians, Petrobussians and others appear, and the new opinions attracted universal notice. Some of these sectaries, however, were not Manicheans. Mosheim, vol. iii. p. 116.

The acts of the inquisition of Toulouse, published by Lim-

last country, and especially in its southern and eastern provinces, they became conspicuous under a variety of names; such as Catharists, Picards, Paterins, but above all, Albigenses. It is beyond a doubt that many of these sectaries owed their origin to the Paulicians; the appellation of Bulgarians was distinctively bestowed upon them; and, according to some writers, they acknowledged a primate or patriarch resident in that country.* The tenets ascribed to them

borch from an ancient manuscript, (stolen, as I presume, though certainly not by himself, out of the archives of that city,) contain many additional proofs that the Albigenses held the Manichean doctrine. Limborch himself will guide the reader to the principal passages, p. 30. In fact, the proof of Manicheism among the heretics of the twelfth century is so strong, (for I have confined myself to those of Languedoc, and could easily have brought other testimony as to the Cathari,) that I should never have thought of arguing the point, but for the confidence of some modern ecclesiastical writers. What can we think of one who says, "It was not unusual to stigmatize new sects with the odious name of Manichees, though *I know no evidence* that there were any real remains of that ancient sect in the twelfth century." Milner's History of the Church, vol. iii. p. 380. Though this writer was by no means learned enough for the task he undertook, he could not be ignorant of facts related by Mosheim and other common historians.

I will only add, in order to obviate cavilling, that I use the word Albigenses for the Manichean sects, without pretending to assert, that their doctrines prevailed more in the neighbourhood of Albi than elsewhere. The main position is, that a large part of the Languedocian heretics against whom the crusade was directed had imbibed the Paulician opinions. If any one chuses rather to call them Catharists it will not be material.

* Mat. Paris, p. 267. (A. D. 1229.) Circa dies istos, hæretici Albigenses constituerunt sibi Antipapam in finibus Bulgarorum, Croatiae et Dalmatiæ, nomine Bartholomæum, &c. We are assured by good authorities that Bosnia was full of Manicheans and Arians as late as the middle of the fifteenth cen-

by all contemporary authorities coincide so remarkably with those held by the Paulicians, and in earlier times by the Manicheans, that I do not see how we can reasonably deny what is confirmed by separate and uncontradicted testimonies, and contains no intrinsic want of probability.*

tury. Æneas Sylvius, p. 407. Spondanus, ad ann, 1460. Mosheim.

* There has been so prevalent a disposition among English divines to vindicate not only the morals and sincerity, but the orthodoxy of these Albigenses, that I deem it necessary to confirm what I have said in the text by some authorities, especially as few readers have it in their power to examine this very obscure subject. Petrus Monacugs, a Cisterian monk who wrote a history of the crusade against the Albigenses, gives an account of the tenets maintained by the different heretical sects. Many of them asserted two principles or creative beings; a good one for things invisible, an evil one for things visible; the former author of the New Testament, the latter of the Old. *Novum Testamentum benigno deo, vetus vero maligno attribuebant; et illud omninò repudiabant, præter quasdam auctoritates, quas de Veteri Testamento, Novo sunt insertæ, quas ob Novi reverentiam Testamenti, recipere dignum æstimabant.* A vast number of strange errors are imputed to them, most of which are not mentioned by Alanus, a more dispassionate writer. Du Chesne, *Scriptores Francorum*, t. v. p. 556. This Alanus de Insulis, whose treatise against heretics, written about 1200, was published by Masson at Lyons in 1612, has left, I think, conclusive evidence of the Manicheism of the Albigenses. He states their argument upon every disputed point as fairly as possible, though his refutation is of course more at length. It appears that great discrepancies of opinion existed among these heretics, but the general tenor of their doctrines, is evidently Manichean. *Aiunt hæretici temporis nostri quod duo sunt principia rerum, principium lucis et principium tenebrarum, &c.* This opinion, strange as we may think it, was supported by Scriptural texts; so insufficient is a mere acquaintance with the sacred writings to secure unlearned and prejudiced minds from the wildest perversions of their meaning! Some denied

But though the derivation of these heretics called Albigenses from Bulgaria is sufficiently proved, it is by no means to be concluded that all who incurred the same imputation either derived their faith from the same country, or had adopted the Manichean theory of the Paulicians. From the very invectives of their enemies, and the acts of the inquisition, it is manifest that almost every shade of heterodoxy was found among these dissidents, till it vanished in a simple protestation against the wealth and tyranny of the clergy. Those who were absolutely free from any

the reality of Christ's body; others his being the son of God; many the resurrection of the body, some even a future state. They asserted, in general, the Mosaic law to have proceeded from the devil, proving this by the crimes committed during its dispensation, and by the words of St. Paul, "the law entered that sin might abound." They rejected infant baptism, but were divided as to the reason; some saying that infants could not sin, and did not need baptism; others that they could not be saved without faith, and consequently that it was useless. They held sin after baptism to be irremissible. It does not appear that they rejected either of the sacraments. They laid great stress upon the imposition of hands, which seems to have been their distinctive right.

One circumstance, which both Alanus and Robertus Monachus mention, and which other authorities confirm, is their division into two classes; the Perfect, and the Credentes, or Consolati, both of which appellations are used. The former abstained from animal food, and from marriage, and led in every respect an austere life. The latter were a kind of lay brethren, living in a secular manner. This distinction is thoroughly Manichean, and leaves no doubt as to the origin of the Albigenses. See Beausobre, *Hist. du Manichéisme*, t. ii. p. 762. and 777. This candid writer represents the early Manicheans as a harmless and austere set of enthusiasts, exactly what the Paulicians and Albigenses appear to have been in succeeding ages. As many calumnies were vented against one as the other.

taint of Manicheism are properly called Waldenses; a name perpetually confounded in later times with that of Albigenes, but distinguishing a sect probably of separate origin, and at least of different tenets. These, according to the majority of writers, took their appellation from Peter Waldo, a merchant of Lyons, the parent, about the year 1160, of a congregation of seceders from the church, who spread very rapidly over France and Germany.* According to

* The contemporary writers seem uniformly to represent Waldo as the founder of the Waldenses; and I am not aware that they refer the locality of that sect to the vallies of Piedmont, between Exiles and Pignerol, (see Leger's map,) which have so long been distinguished as the native country of the Vaudois. In the acts of the inquisition, we find Waldenses, sive pauperes de Lugduno, used as equivalent terms; and it can hardly be doubted, that the poor men of Lyons were the disciples of Waldo. Alanus, the second book of whose treatise against heretics is an attack upon the Waldenses, expressly derives them from Waldo. Petrus Monachus does the same. These seem strong authorities, as it is not easy to perceive what advantage they could derive from misrepresentation. It has been however a position zealously maintained by some modern writers of respectable name, that the people of the vallies had preserved a pure faith, for several ages before the appearance of Waldo. I have read what is advanced on this head by Leger, (*Histoire des Eglises Vaudoises*), and by Allix, (*Remarks on the Ecclesiastical History of the Churches of Piedmont*), but without finding any sufficient proof for this supposition, which nevertheless is not to be rejected as absolutely improbable. Their best argument is deduced from an ancient poem, called *La Noble Loçon*, an original manuscript of which is in the public library of Cambridge. This poem is alleged to bear date in 1100, more than half a century before the appearance of Waldo. But the lines that contain the date are loosely expressed, and may very well suit with any epoch before the termination of the twelfth century.

Ben ha mil et cent ans compli entierament,
Che fu scritta loro que sen al derier temp.

others, the original Waldenses were a race of uncorrupted shepherds, who, in the valleys of the Alps, had shaken off, or perhaps never learned, the system of superstition on which the Catholic church depended for its ascendancy. I am not certain whether their existence can be distinctly traced beyond the preaching of Waldo, but it is well known that the proper seat of the Waldenses or Vaudois has long continued to be in certain vallies of Piedmont. These pious and innocent sectaries, of whom the very monkish historians speak well, appear to have nearly resembled the modern Moravians. They had ministers of their own appointment, and denied the lawfulness of oaths and of capital punishment. In other respects

Eleven hundred years are now gone and past,

Since thus it was written; these times are the last.

I have found however a passage in a late work, which remarkably illustrates the antiquity of Alpine protestantism, if we may depend on the date it assigns to the quotation. Mr. Planta's History of Switzerland, p. 93. 4to. edit. contains the following note. "A curious passage, singularly descriptive of the character of the Swiss, has lately been discovered in a M.S. chronicle of the Abbey of Corvey, which appears to have been written about the beginning of the twelfth century. Religionem nostram, et omnium Latinæ ecclesiæ Christianorum fidem, laici ex Suaviâ, Suiciâ, et Baviariâ humiliare voluerunt; homines seducti ab antiquâ progenie simplicium hominum, qui Alpes et viciniam habitant, et semper amant antiqua. In Suaviam, Baviariam et Italiam borealem sæpe intrant illorum (ex Suiciâ) mercatores, qui biblia ediscunt memoriter, et ritus ecclesiæ aversantur, quos credunt esse novos. Nolunt imagines venerari, reliquias sanctorum aversantur, olera comedunt, rarò masticantes carnem, alii nunquam. Appellamus eos idcirco Manichæos. Horum quidam ab Hungariâ ad eos convenerunt, &c." It is a pity that the quotation has been broken off, as it might have illustrated the connexion of the Bulgarians with these sectaries.

their opinions probably were not far removed from those usually called protestant. A simplicity of dress, and especially the use of wooden sandals, was affected by this people.*

* The Waldenses were always considered as much less erroneous in their tenets than the Albigenses, or Manicheans. Erant præterea alii hæretici, says Robertus Monachus in the passage above quoted, qui Waldenses dicebantur, a quodam Waldio nomine Lugdunensi. Hi quidem mali erant, sed comparatione aliorum hæreticorum longè minus perversi; in multis enim nobiscum conveniebant, in quibusdam dissentiebant. The only faults he seems to impute to them are the denial of the lawfulness of oaths and capital punishment, and the wearing wooden shoes. By this peculiarity of wooden sandals (sabots) they got the name of Sabbatati, or Insabbatati. (Du Cange.) William de Puy, another historian of the same time, makes a similar distinction. Erant quidam Ariani, quidam Manichæi, quidam etiam Waldenses sive Lugdunenses, qui licet inter se dissides, omnes tamen in animarum perniciem contra fidem Catholicam conspirabant; et illi quidem Waldenses contra alios acutissimè disputant. Du Chesne, t. v. p. 606. Alanus, in his second book, where he treats of the Waldenses, charges them principally with disregarding the authority of the church, and preaching without a regular mission. It is evident however from the acts of the Inquisition, that they denied the existence of purgatory; and I should suppose that, even at that time, they had thrown off most of the popish system of doctrine, which is so nearly connected with clerical wealth and power. The difference made in these records between the Waldenses and the Manichean sects, shews that the imputations cast upon the latter were not indiscriminate calumnies. See Limborch, p. 201 and 268.

The History of Languedoc, by Vaissette and Vich, contains a very good account of the sectaries in that country; but I have not immediate access to the book. I believe that proof will be found of the distinction between the Waldenses and Albigenses in t. iii. p. 446. But I am satisfied that no one who has looked at the original authorities will dispute the proposition. These Benedictin historians represent the Henricians, an early set of reformers, condemned by the council of Lombez in 1165, as Manichees. Mosheim considers them

I have already had occasion to relate the severe persecution which nearly exterminated the Albigenes of Languedoc at the close of the twelfth century, and involved the counts of Toulouse in their ruin. The Catharists, a fraternity of the same Paulician origin, more dispersed than the Albigenes, had previously sustained a similar trial. Their belief was certainly a compound of strange errors with truth; but it was attended by qualities of a far superior lustre to orthodoxy, by a sincerity, a piety, and a self-devotion, that almost purified the age in which they lived.* It is always important to perceive that these

as of the Vaudois school. They appeared some time before Waldo.

* The general testimony of their enemies to the purity of morals among the Languedocian and Lyonese sectaries is abundantly sufficient. One Regner, who had lived among them, and became afterwards an inquisitor, does them justice in this respect. See Turner's History of England for several other proofs of this. It must be confessed, that the Catharists are not free from the imputation of promiscuous licentiousness. But whether this was a mere calumny, or partly founded upon truth, I cannot determine. Their prototypes, the ancient Gnostics, are said to have been divided into two parties, the austere and the relaxed; both condemning marriage for opposite reasons. Alanus, in the book above quoted, seems to have taken up several vulgar prejudices against the Cathari. He gives an etymology of their name à catto; quia osculantur posteriora catti; in cujus specie, ut aiunt, appareret iis Lucifer, p. 146. This notable charge was brought afterwards against the Templars.

As to the Waldenses, their innocence is out of all doubt. No book can be written in a more edifying manner than *La Noble Loiçon*, of which large extracts are given by Leger, in his *Histoire des Eglises Vaudoises*. Four lines are quoted by Voltaire, (*Hist. Universelle*, c. 69.) as a specimen of the Provençal language, though they belong rather to the patois

high moral excellencies have no necessary connexion with speculative truths; and upon this account I have been more disposed to state explicitly the real Manicheism of the Albigenses; especially as Protestant writers, considering all the enemies of Rome as their friends, have been apt to place the opinions of these sectaries in a very false light. In the course of time, undoubtedly, the system of their Paulician teachers would have yielded, if the inquisitors had permitted the experiment, to a more accurate study of the Scriptures, and to the knowledge which they would have imbibed from the church itself. And, in fact, we find that the peculiar tenets of Manicheism died away after the middle of the thirteenth century, although a spirit of dissent from the established creed broke out in abundant instances during the two subsequent ages.

We are in general deprived of explicit testimonies in tracing the revolutions of popular opinion. Much must therefore be left to conjecture; but I am inclined to attribute a very extensive effect to the preaching of these heretics. They appear in various countries nearly during the same period, in Spain, Lombardy, Germany, Flanders and England, as

of the vallies. But as he has not copied them rightly, and as they illustrate the subject of this note, I shall repeat them here from Leger, p. 28.

Que sel se troba alcum bon que vollia amar Dio e temer
Jeshu Xrist,

Que non vollia maudire, ni jura, ni mentir,
Ni avoutrar, ni aucire, ni peure de l' autruy,
Ni venjar se de li sio ennemie,
Illi dison quel es Vaudes e degne de murir.

well as France. Thirty unhappy persons, convicted of denying the sacraments, are said to have perished at Oxford by cold and famine in the reign of Henry II. In every country the new sects appear to have spread chiefly among the lower people, which, while it accounts for the imperfect notice of historians, indicates a more substantial influence upon the moral condition of society than the conversion of a few nobles or ecclesiastics.*

* It would be difficult to specify all the dispersed authorities which attest the existence of the sects derived from the Waldenses and Paulicians in the twelfth, thirteenth, and fourteenth centuries. Besides Mosheim, who has paid considerable attention to the subject, I would mention some articles in Du Cange, which supply gleanings; namely, Beghardi, Bulgari, Lollardi, Paterini, Picardi, Pifli, Populicani.

Upon the subject of the Waldenses and Albigenses generally, I have borrowed some light from Mr. Turner's History of England, vol. ii. p. 377. 393. This learned writer has seen some books that have not fallen into my way; and I am indebted to him for a knowledge of Alanus's treatise, which I have since read. At the same time, I must observe, that Mr. Turner has not perceived the essential distinction between the two leading sects.

The name of Albigenses does not frequently occur after the middle of the thirteenth century; but the Waldenses, or sects bearing that denomination, were dispersed over Europe. As a term of different reproach was derived from the word Bulgarian, so *vauderie*, or the profession of the Vaudois, was sometimes applied to witchcraft. Thus in the proceedings of the Chambre Brulante at Arras, in 1459, against persons accused of sorcery, their crime is denominated *vauderie*. The fullest account of this remarkable story is found in the Memoirs of Du Clercq, first published in the general collection of Historical Memoirs, t. ix. p. 430. 471. It exhibits a complete parallel to the events that happened in 1682 at Salem in New England. A few obscure persons were accused of *vauderie*, or witchcraft. After their condemnation, which was founded on confessions, obtained by torture, and afterwards

But even where men did not absolutely enlist under the banners of any new sect, they were stimulated by the temper of their age to more zealous and independant discussion of their religious system. A curious illustration of this is furnished by one of the letters of Innocent III. He had been informed by the bishop of Metz, as he states to the clergy of his diocese, that no small multitude of laymen and women having procured a translation of the gospels, epistles of St. Paul, the psalter, Job, and other books of Scripture, to be made for them into French, meet in sacred conventicles to hear them read, and preach to each other, avoiding the company of those who do not join in their devotion, and having been reprimanded for this by some of the parish priests have withstood them, alleging reasons from the Scrip-

retracted, an epidemical contagion of superstitious dread was diffused all around. Numbers were arrested, burned alive by order of a tribunal instituted for the detection of this offence, or detained in prison; so that no person in Arras thought himself safe. It was believed that many were accused for the sake of their possessions, which were confiscated to the use of the church. At length the duke of Burgundy interfered, and put a stop to the persecutions. The whole narrative in Du Clercq is interesting, as a curious document of the tyranny of bigots, and of the facility with which it is turned to private ends.

To return to the Waldenses: the principal course of their emigration is said to have been into Bohemia, where, in the fifteenth century, the name was borne by one of the seceding sects. By their profession of faith, presented to Ladislaus Posthumus, it appears that they acknowledged the corporal presence in the eucharist, but rejected purgatory and other Romish doctrines. See it in the *Fasciculus Rerum expetendarum et fugiendarum*, a collection of treatises illustrating the origin of the Reformation, originally published at Cologne in 1535, and reprinted at London in 1690.

tures why they should not be so forbidden. Some of them too deride the ignorance of their ministers, and maintain that their own books teach them more than they can learn from the pulpit, and that they can express it better. Although the desire of reading the Scriptures, Innocent proceeds, is rather praiseworthy than reprehensible, yet they are to be blamed for frequenting secret assemblies, for usurping the office of preaching, deriding their own ministers, and scorning the company of such as do not concur in their novelties. He presses the bishop and chapter to discover the author of this translation, which could not have been made without a knowledge of letters, and what were his intentions, and what degree of orthodoxy and respect for the holy see those who used it possessed. This letter of Innocent III., however, considering the nature of the man, is sufficiently temperate and conciliatory. It seems not to have answered its end; for in another letter he complains that some members of this little association continued refractory, and refused to obey either the bishop or the pope.*

In the eighth and ninth centuries, when the Vulgate had ceased to be generally intelligible, there is no reason to suspect any intention in the church to deprive the laity of the Scriptures. Translations were freely made into the vernacular languages, and

* Opera Innocent. III. p. 468. 537. A translation of the Bible had been made by direction of Peter Waldo; but whether this used in Lorrain was the same, does not appear. Metz was full of the Vaudois, as we find by other authorities.

perhaps read in churches, although the acts of saints were generally deemed more instructive. Louis the Debonair is said to have caused a German version of the New Testament to be made. Otfrid, in the same century, rendered the gospels, or rather abridged them, into German verse. This work is still extant, and is in several respects an object of curiosity.* In the eleventh or twelfth century, we find translations of the Psalms, Job, Kings and the Maccabees into French.† But after the diffusion of heretical opinions, or, what was much the same thing, of free inquiry, it became expedient to secure the orthodox faith from lawless interpretation. Accordingly the council of Toulouse, 1229, prohibited the laity from possessing the Scriptures; and this precaution was frequently repeated upon subsequent occasions.

The ecclesiastical history of the thirteenth or fourteenth centuries teems with new sectaries and schismatics, various in their aberrations of opinion, but all concurring in detestation of the established church.‡ They endured severe persecutions with a sincerity and firmness which in any other cause ought to command respect. But in general we find an extrava-

* Schilteri Thesaurus Antiq. Teutonicorum, t. ii.

† Mém. de l'Acad. des Inscript. t. xvii. p. 720.

‡ The application of the visions of the Apocalypse to the corruptions of Rome has commonly been said to have been first made by the Franciscan seceders. But it may be traced higher, and is remarkably pointed out by Dante.

Di voi pastor s'accorse 'l Vangelista,
Quando colei, chi siede sovra l' acque,
Puttaneggiar co' regi a lui fù vista.

Inferno, Cant. xix.

gant fanaticism among them ; and I do not know how to look for any melioration of society from the Franciscan seceders, who quibbled about the property of things consumed by use, or from the mystical visionaries of different appellations, whose moral practice was sometimes more than equivocal. Those who feel any curiosity about such subjects, which are by no means unimportant as they illustrate the history of the human mind, will find them treated very fully by Mosheim. But the original sources of information are not always accessible in this country, and the research would perhaps be more fatiguing than profitable.

I shall, for an opposite reason, pass slightly over the great revolution in religious opinion wrought in England by Wicliffe, which will generally be familiar to the reader from our common historians. Nor am I concerned to treat of theological inquiries, or to write a history of the church. Considered in its effect upon manners, the sole point which these pages have in view, the preaching of this new sect certainly produced an extensive reformation. But their virtues were by no means free from some un-social qualities, in which, as well as in their superior attributes, the Lollards bear a very close resemblance to the Puritans of Elizabeth's reign; a moroseness that proscribed all cheerful amusements, an uncharitable malignity that made no distinction in condemning the established clergy, and a narrow prejudice that applied the rules of the Jewish law to mo-

dern institutions.* Some of their principles were far more dangerous to the good order of society, and cannot justly be ascribed to the Puritans, though they grew afterwards out of the same soil. Such was the notion, which is imputed also to the Albigenes, that civil magistrates lose their right to govern by committing sin, or, as it was quaintly expressed in the seventeenth century, that dominion is founded in grace. These extravagances however do not belong to the learned and politic Wicliffe, however they might be adopted by some of his enthusiastic disciples.† Fostered by the general ill will towards the church, his principles made vast progress in England, and, unlike those of earlier sectaries, were embraced by men of rank and civil influence. Notwithstanding the check they sustained by the sanguinary law of Henry IV. it is highly probable that

* Walsingham, p. 288. Lewis's *Life of Peacock*, p. 65. Bishop Peacock's answer to the Lollards of his time contains passages well worthy of Hooker, both for weight of matter and dignity of style, setting forth the necessity and importance of "the moral law of kinde, or moral philosophie," in opposition to those who derive all morality from revelation.

This great man fell afterwards under the displeasure of the church for propositions, not indeed heretical, but repugnant to her scheme of spiritual power. He asserted, indirectly, the right of private judgment, and wrote on theological subjects in English, which gave much offence. In fact, Peacock seems to have hoped that his acute reasoning would convince the people, without requiring an implicit faith. But he greatly misunderstood the principle of an infallible church. Lewis's life of Peacock does justice to his character, which, I need not say, is unfairly represented by such historians as Collier, and such antiquaries as Thomas Hearne.

† Lewis's *Life of Wicliffe*, p. 115. Lenfant, *Hist. du Concile de Constance*, t. i. p. 213.

multitudes secretly cherished them down to the æra of the Reformation.

From England the spirit of religious innovation was propagated into Bohemia; for though John Huss was very far from embracing all the doctrinal system of Wicliffe, it is manifest that his zeal had been quickened by the writings of that reformer.* Inferior to the Englishman in ability, but exciting greater attention by his constancy and sufferings, as well as by the memorable war which his ashes kindled, the Bohemian martyr was even more eminently the precursor of the Reformation. But still regarding these dissensions merely in a temporal light, I cannot assign any beneficial effect to the schism of the Hussites, at least in its immediate results, and in the country where it appeared. Though some degree of sympathy with their cause is inspired by resentment at the ill faith of their adversaries, and by the associations of civil and religious liberty, we cannot estimate the Taborites and other sectaries of that description but as ferocious and desperate fanatics.† Perhaps beyond the confines of Bohemia more sub-

* Huss does not appear to have rejected any of the peculiar tenets of popery. Lenfant, p. 414. He embraced, like Wicliffe, the predestinarian system of Augustin, without pausing at any of those inferences, apparently deducible from it, which, in the heads of enthusiasts, may produce such extensive mischief. These were maintained by Huss, (id. p. 328.) though not perhaps so crudely as by Luther. Every thing relative to the history and doctrine of Huss and his followers will be found in Lenfant's three works, on the councils of Pisa, Constance, and Basle.

† Lenfant, *Hist. de la Guerre des Hussites et du Concile de Basle.* Schmidt, *Hist. des Allemands*, t. v.

stantial good may have been produced by the influence of its reformation, and a better tone of morals inspired into Germany. But I must again repeat, that upon this obscure and ambiguous subject I assert nothing definitely, and little with confidence. The tendencies of religious dissent in the four ages before the Reformation appear to have generally conduced towards the moral improvement of mankind; and facts of this nature occupy a far greater space in a philosophical view of society during that period, than we might at first imagine; but every one who is disposed to prosecute this inquiry will assign their character according to the result of his own investigations.

But the best school of moral discipline which the middle ages afforded was the institution of chivalry. There is something; perhaps to allow for the partiality of modern writers upon this interesting subject; but our most sceptical criticism must assign a decisive influence to this great source of human improvement. The more deeply it is considered, the more we shall become sensible of its importance.

There are, if I may so say, three powerful spirits, which have from time to time moved over the face of the waters, and given a predominant impulse to the moral sentiments and energies of mankind. These are the spirits of liberty, of religion, and of honour. It was the principal business of chivalry to animate and cherish the last of these three. And whatever high magnanimous energy the love of liberty or reli-

gious zeal has ever imparted was equalled by the exquisite sense of honour which this institution preserved.

It appears probable, that the custom of receiving arms at the age of manhood with some solemnity was of immemorial antiquity among the nations that overthrew the Roman empire. For it is mentioned by Tacitus to have prevailed among their German ancestors; and his expressions might have been used with no great variation to describe the actual ceremonies of knighthood.* There was even in that remote age a sort of public trial as to the fitness of the candidate, which, though perhaps confined to his bodily strength and activity, might be the germ of that refined investigation which was thought necessary in the perfect stage of chivalry. Proofs, though rare and incidental, might be adduced to shew, that in the time of Charlemagne and even earlier, the sons of monarchs at least did not assume manly arms without a regular investiture. And in the eleventh century, it is evident that this was a general practice.†

* *Nihil neque publicæ neque privatæ rei nisi armati agunt. Sed arma sumere non ante cuiquam moris, quàm civitas susceptorum probaverit. Tum in ipso concilio, vel principum aliquis, vel pater, vel propinquus scuto frameâque ornant; hæc apud eos togæ, hic primus juventæ honos; ante hoc domus pars videntur, mox reipublicæ. De Moribus German. c. 13.*

† William of Malmsbury says that Alfred conferred knighthood on Athelstan, *donatum chlamyde coccineâ, gemmato balteo, ense Saxonico cum vaginâ aureâ. I. ii. c. 6.* St. Palaye (*Mémoires sur la Chevalerie, part 2.*) mentions other instances; which may also be found in Du Cange's Glossary, v. Arma, and in his 22d dissertation on Joinville.

This ceremony, however, would perhaps of itself have done little towards creating that intrinsic principle which characterized the genuine chivalry. But in the reign of Charlemagne, we find a military distinction, that appears, in fact as well as in name, to have given birth to that institution. Certain feudal tenants, and I suppose also alodial proprietors, were bound to serve on horseback, equipped with the coat of mail. These were called *Caballarii*, from which the word chevaliers is an obvious corruption.* But he who fought on horseback, and had been invested with peculiar arms in a solemn manner, wanted nothing more to render him a knight. Chivalry therefore may, in a general sense, be referred to the age of Charlemagne. We may however go farther, and observe that these distinctive advantages above ordinary combatants were probably the sources of that remarkable valour and that keen thirst for glory which became the essential attributes of a knightly character. For confidence in our skill and strength is the usual foundation of courage; it is by feeling ourselves able to surmount common dangers, that we become adventurous enough to encounter those of a more extraordinary nature, and to which more glory is attached. The reputation of superior personal prowess, so difficult to be attained in the course of modern warfare, and so liable to erroneous representations, was always within the reach of the stoutest knight, and was

* *Comites et vassalli nostri qui beneficia habere noscuntur, et caballarii omnes ad placitum nostrum veniant bene preparati.* Capitularia, A. D. 807. in Baluze, t. i. p. 460.

founded on claims, which could be measured with much accuracy. Such is the subordination and mutual dependence in a modern army, that every man must be content to divide his glory with his comrades, his general, or his soldiers. But the soul of chivalry was individual honour, coveted in so entire and absolute a perfection, that it must not be shared with an army or a nation. Most of the virtues it inspired were what we call independent, as opposed to those which are founded upon social relations. The knights-errant of romance perform their best exploits from the love of renown, or from a sort of abstract sense of justice, rather than from any solicitude to promote the happiness of mankind. If these springs of action are less generally beneficial, they are, however, more connected with elevation of character than the systematic prudence of men accustomed to social life. This solitary and independent spirit of chivalry, dwelling, as it were, upon a rock, and disdaining injustice or falsehood from a consciousness of internal dignity, without any calculation of their consequences, is not unlike what we sometimes read of Arabian chiefs or the North-American Indians.* These nations, so widely remote from each other, seem to partake of that moral energy, which among European nations, far remote from both of them, was excited by the spirit of chi-

* We must take for this the more favourable representations of the Indian nations. A deteriorating intercourse with Europeans or a race of European extraction has tended to efface these virtues, which possibly were rather exaggerated by earlier writers.

valry. But the most beautiful picture that was ever pourtrayed of this character is the Achilles of Homer, the representative of chivalry in its most general form, with all its sincerity and unyielding rectitude, all its courtesies and munificence. Calmly indifferent to the cause in which he is engaged, and contemplating with a serious and unshaken look the premature death that awaits him, his heart only beats for glory and friendship. To this sublime character, bating that imaginary completion, by which the creations of the poet, like those of the sculptor, transcend all single works of nature, there were probably many parallels in the ages of chivalry; especially before a set education and the refinements of society had altered a little the natural unadulterated warrior of a ruder period. One illustrious example from this earlier age is the Cid Ruy Diaz, whose history has fortunately been preserved much at length in several chronicles of ancient date, and one valuable poem; and though I will not say that the Spanish hero is altogether a counterpart of Achilles in gracefulness and urbanity, yet was he inferior to none that ever lived in frankness, honour and magnanimity.*

* Since this passage was written, I have found a parallel drawn by Mr. Sharon Turner, in his valuable History of England, between Achilles and Richard Cœur de Lion; the superior justness of which I readily acknowledge. The real hero does not indeed excite so much interest in me as the poetical; but the marks of resemblance are very striking, whether we consider their passions, their talents, their virtues, their vices, or the waste of their heroism.

The two principal persons in the Iliad, if I may digress into

In the first stage of chivalry, it was closely connected with the military service of fiefs. The *Ca-ballarii* in the Capitularies, the *Milites* of the eleventh and twelfth centuries, were land-holders who followed their lord and sovereign into the field. A certain value of land was termed in England a knight's fee, or, in Normandy, *feudum loricae*, *fief de haubert*, from the coat of mail which it intitled and required the tenant to wear; a military tenure was said to be by service in chivalry. To serve as knights, mounted and equipped, was the common duty of vassals; it implied no personal merit, it gave of itself a claim to no civil privileges. But this knight-service founded upon a feudal obligation is to be carefully distinguished from that superior chivalry, in which all was independent and voluntary. The latter, in fact, could hardly flourish in its full perfection till the

the observation, appear to me representatives of the heroic character in its two leading varieties; of the energy which has its sole principle of action within itself, and of that which borrows its impulse from external relations: of the spirit of honour, in short, and of patriotism. As every sentiment of Achilles is independent and self-supported; so those of Hector all bear reference to his kindred and his country. The ardour of the one might have been extinguished for want of nourishment in Thessaly; but that of the other might, we fancy, have never been kindled but for the dangers of Troy. Peace could have brought no delight to the one but from the memory of war; war had no alleviation to the other but from the images of peace. Compare, for example, the two speeches, beginning *Il Z. 441.* and *Il Π. 49*; or rather, compare the two characters throughout the *Iliad*. So wonderfully were these two great springs of human sympathy, variously interesting according to the diversity of our tempers, first touched by that ancient patriarch,

à quo, ceu fonte perenni,
Vatum Pieriis ora rigantur aquis.

military service of feudal tenure began to decline; namely, in the thirteenth century. The origin of this personal chivalry I should incline to refer to the ancient usage of voluntary commendation, which I have mentioned in a former chapter. Men commended themselves, that is, did homage and professed attachment to a prince or lord; generally indeed for protection or the hope of reward, but sometimes probably for the sake of distinguishing themselves in his quarrels. When they received pay, which must have been the usual case, they were literally his soldiers, or stipendiary troops. Those who could afford to exert their valour without recompense were like the knights of whom we read in romance, who served a foreign master through love, or thirst of glory, or gratitude. The extreme poverty of the lower nobility, arising from the subdivision of fiefs, and the politic generosity of rich lords, made this connexion as strong as that of territorial dependence. A younger brother leaving the paternal estate, in which he took a slender share, might look to wealth and dignity in the service of a powerful count. Knighthood, which he could not claim as his legal right, became the object of his chief ambition. It raised him in the scale of society, equalling him in dress, in arms, and in title, to the rich land-holders. As it was due to his merit, it did much more than equal him to those who had no pretensions but from wealth; and the territorial knights became by degrees ashamed of assuming the title till they could challenge it by real desert.

This class of noble and gallant cavaliers, serving commonly for pay, but on the most honourable footing, became far more numerous through the crusades; a great epoch in the history of European society. In these wars, as all feudal service was out of the question, it was necessary for the richer barons to take into their pay as many knights as they could afford to maintain; speculating, so far as such motives operated, on an influence with the leaders of the expedition, and on a share of plunder, proportioned to the number of their followers. During the period of the crusades, we find the institution of chivalry acquire its full vigour as an order of personal nobility; and its original connexion with feudal tenure, if not altogether effaced, became in a great measure forgotten in the splendour and dignity of the new form which it wore.

The crusades, however, changed in more than one respect the character of chivalry. Before that epoch, it appears to have had no particular reference to religion. Ingulfus indeed tells us that the Anglo-Saxons preceded the ceremony of investiture by a confession of their sins, and other pious rites, and they received the order at the hands of a priest, instead of a knight. But this was derided by the Normans as effeminacy, and seems to have proceeded from the extreme devotion of the English before the conquest.* One can hardly perceive indeed why

* Ingulfus, in Gale xv. Scriptores, t. i. p. 70. William Rufus, however, was knighted by Archbishop Lanfranc, which looks as if the ceremony was not absolutely repugnant to the Norman practice.

the assumption of arms to be used in butchering mankind should be treated as a religious ceremony. The clergy, to do them justice, constantly opposed the private wars in which the courage of those ages wasted itself; and all bloodshed was subject in strictness to a canonical penance. But the purposes for which men bore arms in a crusade so sanctified their use, that chivalry acquired the character as much of a religious as a military institution. For many centuries, the recovery of the Holy Land was constantly at the heart of a brave and superstitious nobility; and every knight was supposed at his creation to pledge himself, as occasion should arise, to that cause. Meanwhile, the defence of God's law against infidels was his primary and standing duty. A knight, whenever present at mass, held the point of his sword before him while the Gospel was read, to signify his readiness to support it. Writers of the middle ages compare the knightly to the priestly character in an elaborate parallel, and the investiture of the one was supposed analogous to the ordination of the other. The ceremonies upon this occasion were almost wholly religious. The candidate passed nights in prayer among priests in a church; he received the sacraments; he entered into a bath, and was clad with a white robe, in allusion to the presumed purification of his life; his sword was solemnly blessed; every thing in short was contrived to identify his new condition with the defence of religion, or at least of the church.*

* Du Cange, v. Miles, and 22d Dissertation on Joinville, St. Palaye, *Mém. sur la Chevalerie*, part ii. A curious original

To this strong tincture of religion which entered into the composition of chivalry from the twelfth century was added another ingredient equally distinguishing. A great respect for the female sex had always been a remarkable characteristic of the Northern nations. The German women were high-spirited and virtuous; qualities, which might be causes or consequences of the veneration with which they were regarded. I am not sure that we could trace very minutely the condition of women for the period between the subversion of the Roman empire and the first crusade; but apparently man did not grossly abuse his superiority; and in point of civil rights, and even as to the inheritance of property, the two sexes were placed perhaps as nearly on a level as the nature of such warlike societies would admit. There seems, however, to have been more roughness in the social intercourse between the sexes, than we find in later periods. The spirit of gallantry, which became perhaps the most animating principle of chivalry, must be ascribed to the progressive refinement of society during the twelfth and two succeeding centuries. In a rude state of manners, as among the lower people in all ages, woman has not full scope to display those fascinating graces, by which nature has designed to counterbalance the strength and energy of mankind. Even where those jealous customs that degrade alike the two sexes have not prevailed, her lot is domestic

illustration of this, as well as of other chivalrous principles will be found in *l'Ordene de Chevalerie*, a long metrical romance published in Barbazan's *Fabliaux*, t. i. p. 59. (edit, 1808.)

seclusion, nor is she fit to share in the boisterous pastimes or drunken merriment to which the intercourse of an unpolished people is confined. But as a taste for the more elegant enjoyments of wealth arises, a taste which it is always her policy and her delight to nourish, she obtains an ascendancy at first in the lighter hours, and from thence in the serious occupations of life. She chases, or brings into subjection the god of wine, a victory which might seem more ignoble, were it less difficult, and calls in the aid of divinities more propitious to her ambition. The love of becoming ornament is not perhaps to be regarded in the light of vanity; it is rather an instinct which woman has received from nature to give effect to those charms that are her defence; and when commerce began to minister more effectually to the wants of luxury, the rich furs of the North, the gay silks of Asia, the wrought gold of domestic manufacture, illumined the halls of chivalry, and cast, as if by the spell of enchantment, that ineffable grace over beauty which the choice and arrangement of dress is calculated to bestow. Courtesy had always been the proper attribute of knighthood; protection of the weak its legitimate duty; but these were heightened to a pitch of enthusiasm when woman became their object. There was little jealousy shewn in the treatment of that sex, at least in France, the fountain of chivalry; they were present at festivals, at tournaments, and sat promiscuously in the halls of their castles. The romance of *Perceforest* (and romances have always been deemed good witnesses as to manners) tells of a feast where eight hundred knights had each of them

a lady eating off his plate.* For to eat off the same plate was an usual mark of gallantry or friendship.

Next therefore, or even equal to devotion, stood gallantry among the principles of knighthood. But all comparison between the two was saved by blending them together. The love of God and the ladies was enjoined as a single duty. He who was faithful and true to his mistress was held sure of salvation in the theology of castles, though not of cloisters.† Froissart announces that he had undertaken a collection of amorous poetry with the help of God and of love; and Boccace returns thanks to each for their assistance in the Decameron. The laws sometimes united in this general homage to the fair. We will, says James II. of Aragon, that every man, whether knight or no, who shall be in company with a lady, pass safe and unmolested, unless he be guilty of murder.‡ Louis II., duke of Bourbon, instituting the order of the golden shield, enjoins his knights to honour above all the ladies, and not to permit any one to slander them, “because from them after God comes all the honour that men can acquire.”§

* Y eut huit cens chevaliers séant a table; et si n’y eust celui qui n’eust une dame ou une pucelle a son ecuelle. In Lancelot du Lac, a lady who was troubled with a jealous husband complains that it was a long time since a knight had eat off her plate. Le Grand, t. i. p. 24.

† Le Grand, Fabliaux, t. iii. p. 438. St. Palaye, t. i. p. 41. I must quote St. Palaye’s Memoirs from the first edition in 1759, which is not the best.

‡ Statuimus, quod omnis homo, sive miles sive alius, qui iverit cum dominâ generosâ, salvus sit atque securus, nisi fuerit homicida. De Marca, Marca Hispanica, p. 1428.

§ Le Grand, t. i. p. 120. St. Palaye, t. i. p. 13. 134. 221. Fabliaux, Romances, &c. passim.

The gallantry of those ages, which was very often adulterous, had certainly no right to profane the name of religion; but its union with valour was at least more natural, and became so intimate, that the same word has served to express both qualities. In the French and English wars especially, the knights of each country brought to that serious conflict the spirit of romantic attachment which had been cherished in the hours of peace. They fought at Poitiers or Verneuil as they had fought at tournaments, bearing over their armour scarves and devices, as the livery of their mistresses, and asserting the paramount beauty of her they served, in vaunting challenges towards the enemy. Thus in the middle of a keen skirmish at Cherbourg, the squadrons remained motionless, while one knight challenged to a single combat the most amorous of the adversaries. Such a defiance was soon accepted; and the battle only recommenced, when one of the champions had lost his life for his love.* In the first campaign of Edward's war, some young English knights wore a covering over one eye, vowing, for the sake of their ladies, never to see with both, till they should have signalized their prowess in the field.† These extravagancies of chivalry are so common that they form part of its general character, and prove how far a course of action which depends upon the impulses of sentiment may come to deviate from common sense.

* St. Palaye, p. 222.

† Froissart, p. 53.

It cannot be presumed that this enthusiastic veneration, this devotedness in life and death, were wasted upon ungrateful natures. The goddesses of that idolatry knew too well the value of their worshippers. There has seldom been such adamant about the female heart, as can resist the highest renown for valour and courtesy, united with the steadiest fidelity. "He loved, (says Froissart of Eustace d'Auberticourt,) and afterwards married, Lady Isabel, daughter of the count of Juliers. This lady too loved Lord Eustace for the great exploits in arms which she heard told of him, and she sent him horses and loving letters, which made the said Lord Eustace more bold than before, and he wrought such feats of chivalry that all in his company were the gainers."* It were to be wished that the sympathy of love and valour had always been as honourable. But the morals of chivalry, we cannot deny, were not pure. In the amusing fictions which seem to have been the only popular reading of the middle ages, there reigns a licentious spirit, not of that slighter kind, which is usual in such compositions, but indicating a general dissoluteness in the intercourse of the sexes. This has often been noticed of Boccaccio and the early Italian novelists; but it equally characterizes the tales and romances of France, whether metrical or in prose, and all the poetry of the Troubadours.†

* St. Palaye, 268.

† The romances will speak for themselves; and the charac-

The violation of marriage-vows passes in them for an incontestible privilege of the brave and fair; and an accomplished knight seems to have enjoyed as undoubted prerogatives, by general consent of opinion, as were claimed by the brilliant courtiers of Louis XV.

But neither that emulous valour which chivalry excited, nor the religion and gallantry which were its animating principles, alloyed as the latter were by the corruption of those ages, could have rendered its institution materially conducive to the moral improvement of society. There were, however, excellencies of a very high class which it equally encouraged. In the books professedly written to lay down the duties of knighthood, they appear to spread over the whole compass of human obligations. But these, like other books of morality, strain their schemes of perfection far beyond the actual practice of mankind. A juster estimate of chivalrous manners is to be deduced from romances. Yet in these, as in all similar fictions, there must be a few ideal touches beyond the simple truth of character; and the picture can only be interesting, when it ceases to present images of mediocrity or striking imperfection. But they referred their models of fictitious heroism to the existing

ter of the Provençal morality may be collected from Millot, *Hist. des Troubadours*, passim; and from Sismondi, *Littérature du Midi*, t. i. p. 179. &c. See too St. Palaye, t. ii. p. 62. and 68.

standard of moral approbation; a rule, which, if it generally falls short of what reason and religion prescribe, is always beyond the average tenor of human conduct. From these, and from history itself, we may infer the tendency of chivalry to elevate and purify the moral feelings. Three virtues may particularly be noticed, as essential, in the estimation of mankind to the character of a knight; loyalty, courtesy, and munificence.

The first of these, in its original sense, may be defined, fidelity to engagements; whether actual promises, or such tacit obligations as bound a vassal to his lord, and a subject to his prince. It was applied also, and in the utmost strictness, to the fidelity of a lover towards the lady he served. Breach of faith, and especially of an express promise, was held a disgrace that no valour could redeem. False, perjured, disloyal, recreant, were the epithets which he must be compelled to endure, who had swerved from a plighted engagement, even towards an enemy. This is one of the most striking changes produced by chivalry. Treachery, the usual vice of savage, as well as corrupt nations, became infamous during the vigour of that discipline. As personal rather than national feelings actuated its heroes, they never felt that hatred, much less that fear of their enemies, which blind men to the heinousness of ill faith. In the wars of Edward III., originating in no real animosity, the spirit of honourable, as well as courteous behaviour towards

the foe, seems to have arrived at its highest point. Though avarice may have been the primary motive of ransoming prisoners, instead of putting them to death, their permission to return home on the word of honour, in order to procure the stipulated sum, an indulgence never refused, could only be founded on experienced confidence in the principles of chivalry.*

A knight was unfit to remain a member of the order, if he violated his faith; he was ill acquainted with its duties, if he proved wanting in courtesy. This word expressed the most highly refined good breeding, founded less upon a knowledge of ceremonious politeness, though this was not to be omitted, than on the spontaneous modesty, self-denial, and respect for others, which ought to spring from his heart. Besides the grace which this beautiful virtue threw over the habits of social life, it softened down the natural roughness of war, and gradually introduced that indulgent treatment of prisoners which was almost unknown to antiquity. Instances of this kind are continual in the later period of the middle ages. An Italian writer blames the soldier who wounded Eccelin, the famous tyrant of Padua, after he was taken. He deserved, says he, no praise, but rather the greatest infamy for his baseness; since it is as vile an act to wound a prisoner, whether noble or otherwise, as to strike a

* St. Palaye, part ii.

dead body.* Considering the crimes of Ecceliu, this sentiment is a remarkable proof of generosity. The behaviour of Edward III. to Eustace de Ribau-
 mont, after the capture of Calais, and that, still more exquisitely beautiful, of the Black Prince to his royal prisoner at Poitiers, are such eminent instances of chivalrous virtue, that I omit to repeat them only because they are so well known. Those great princes too might be imagined to have soared far above the ordinary track of mankind. But in truth, the knights who surrounded them, and imitated their excellencies, were only inferior in opportunities of displaying the same virtue. After the battle of Poitiers, “the English and Gascon knights,” says Froissart, “having entertained their prisoners, went home each of them with the knights or squires he had taken, whom he then questioned upon their honour, what ransom they could pay without inconvenience, and easily gave them credit; and it was common for men to say, that they would not straighten any knight or squire, so that he should not live well, and keep up his honour.† Liberality indeed, and disdain of money, might be reckoned, as I have said, among the essential vir-

* Non laudem meruit, sed summæ potius opprobrium vilitatis; nam idem facinus est putandum captum nobilem vel ignobilem offendere, vel ferire, quàm gladio cædere cadaver. Rolandinus, in Script. Rer. Ital. t. viii. p. 351.

† Froissart, l. i. c. 161. He remarks in another place, that all English and French gentlemen treat their prisoners well; not so the Germans, who put them in fetters, in order to extort more money. c. 136.

ties of chivalry. All the romances inculcate the duty of scattering their wealth with profusion, especially towards minstrels, pilgrims, and the poorer members of their own order. The last, who were pretty numerous, had a constant right to succour from the opulent; the castle of every lord, who respected the ties of knighthood, was open with more than usual hospitality to the traveller whose armour announced his dignity, though it might also conceal his poverty.*

Valour, loyalty, courtesy, munificence, formed collectively the character of an accomplished knight, so far as it was displayed in the ordinary tenor of his life, reflecting these virtues as an unsullied mirror. Yet something more was required for the perfect idea of chivalry, and enjoined by its principles; an active sense of justice, an ardent indignation against wrong, a determination of courage to its best end, the prevention or redress of injury. It grew up as a salutary antidote in the midst of poisons, while scarce any law but that of the strongest obtained regard, and the rights of territorial property, which are only rights as they conduce to general good, became the means of general oppression. The real condition of society, it has sometimes been

* St. Palaye, part iv. p. 312. 367, &c. *Le Grand, Fabliaux*, t. i. p. 115. 167. It was the custom in Great Britain, (says the romance of *Perceforest*, speaking of course in an imaginary history,) that noblemen and ladies placed a helmet on the highest point of their castles, as a sign that all persons of such rank travelling that road might boldly enter their houses like their own. *St. Palaye*, p. 367.

thought, might suggest stories of knight-errantry, which were wrought up into the popular romances of the middle ages. A baron, abusing the advantage of an inaccessible castle in the fastnesses of the Black Forest or the Alps, to pillage the neighbourhood, and confine travellers in his dungeon, though neither a giant nor a Saracén, was a monster not less formidable; and could perhaps as little be destroyed without the aid of disinterested bravery. Knight-errantry indeed, as a profession, cannot rationally be conceived to have had any existence beyond the precincts of romance. Yet there seems no improbability in supposing, that a knight, journeying through uncivilized regions in his way to the Holy Land, or to the court of a foreign sovereign, might find himself engaged in adventures not very dissimilar to those which are the theme of romance. We cannot indeed expect to find any historical evidence of such incidents.

The characteristic virtues of chivalry bear so much resemblance to those which eastern writers of the same period extol, that I am a little disposed to suspect Europe of having derived some improvement from imitation of Asia. Though the crusades began in abhorrence of infidels, this sentiment wore off in some degree before their cessation; and the regular intercourse of commerce, sometimes of alliance, between the Christians of Palestine and the Saracens, must have removed part of the prejudice, while experience of their enemy's courage and ge-

nerosity in war would with those gallant knights serve to lighten the remainder. The romancers expatiate with pleasure on the merits of Saladin, who actually received the honour of knighthood from Hugh of Tabaria his prisoner. An ancient poem, entitled the Order of Chivalry, is founded upon this story, and contains a circumstantial account of the ceremonies, as well as duties, which the institution required.* One or two other instances of a similar kind bear witness to the veneration in which the name of knight was held among the eastern nations. And certainly, excepting that romantic gallantry towards women, which their customs would not admit, the Mohammedan chieftains were for the most part abundantly qualified to fulfil the duties of European chivalry. Their manners had been polished and courteous, while the western kingdoms were comparatively barbarous.

The principles of chivalry were not, I think, naturally productive of many evils. For it is unjust to class those acts of oppression or disorder among the abuses of knighthood, which were committed in spite of its regulations, and were only prevented by them from becoming more extensive. The license of times so imperfectly civilized could not be expected to yield to institutions, which, like those of religion, fell prodigiously short in their practical result of the reformation which they were designed

* *Fabliaux de Barbasan*, t. i.

to work. Man's guilt and frailty have never admitted more than a partial corrective. But some bad consequences may be more fairly ascribed to the very nature of chivalry. I have already mentioned the dissoluteness, which almost unavoidably resulted from the prevailing tone of gallantry. And yet we sometimes find, in the writings of those times, a spirit of pure, but exaggerated sentiment; and the most fanciful refinements of passion are mingled by the same poets with the coarsest immorality. An undue thirst for military renown was another fault that chivalry must have nourished; and the love of war, sufficiently pernicious in any shape, was more founded, as I have observed, on personal feelings of honour, and less on public spirit, than in the citizens of free states. A third reproach may be made to the character of knight-hood, that it widened the separation between the different classes of society, and confirmed that aristocratical spirit of high birth, by which the large mass of mankind were kept in unjust degradation. Compare the generosity of Edward III. towards Eustace de Ribau mont at the siege of Calais, with the harshness of his conduct towards the citizens. This may be illustrated by a story from Joinville, who was himself imbued with the full spirit of chivalry, and felt like the best and bravest of his age. He is speaking of Henry count of Champagne, who acquired, says he, very deservedly the surname of Liberal, and adduces the following proof

of it. A poor knight implored of him on his knees one day as much money as would serve to marry his two daughters. One Arthault de Nogent, a rich burgess, willing to rid the count of this importunity, but rather awkward, we must own, in the turn of his argument, told the petitioner; My lord has already given away so much that he has nothing left. Sir Villain, said Henry, turning round to him, you do not speak truth, in saying that I have nothing left to give, when I have got yourself. Here, Sir Knight, I give you this man, and warrant your possession of him. Then, says Joinville, the poor knight was not at all confounded, but seized hold of the burgess fast by the collar, and told him he should not go till he had ransomed himself. And in the end he was forced to pay a ransom of five hundred pounds. The simple-minded writer who brings this evidence of the count of Champagne's liberality is not at all struck with the facility of a virtue that is exercised at the cost of others.*

There is perhaps enough in the nature of this institution and its congeniality to the habits of a warlike generation to account for the respect in which it was held throughout Europe. But several collateral circumstances served to invigorate its spirit. Besides the powerful efficacy with which the poetry and romance of the middle ages stimu-

* Joinville in *Collection des Mémoires*, t. i. p. 43.

lated those susceptible minds which were alive to no other literature, we may enumerate four distinct causes, tending to the promotion of chivalry.

The first of these was the regular scheme of education, according to which the sons of gentlemen, from the age of seven years, were brought up in the castles of superior lords, where they at once learned the whole discipline of their future profession, and imbibed its emulous and enthusiastic spirit. This was an inestimable advantage to the poorer nobility, who could hardly otherwise have given their children the accomplishments of their station. From seven to fourteen these boys were called pages or varlets; at fourteen they bore the name of esquire. They were instructed in the management of arms, in the art of horsemanship, in exercises of strength and activity. They became accustomed to obedience and courteous demeanour, serving their lord or lady in offices which had not yet become derogatory to honourable birth, and striving to please visitors, and especially ladies, at the ball or banquet. Thus placed in the centre of all that could awaken their imaginations, the creed of chivalrous gallantry, superstition or honour, must have made indelible impressions. Panting for the glory which neither their strength, nor the established rules permitted them to anticipate, the young scions of chivalry attended their masters to the tournament, and even to the battle, and rivetted

with a sigh the armour they were forbidden to wear.*

It was the constant policy of sovereigns to encourage this institution, which furnished them with faithful supporters, and counteracted the independent spirit of feudal tenure. Hence they displayed a lavish magnificence in festivals and tournaments, which may be reckoned a second means of keeping up the tone of chivalrous feeling. The kings of France and England held solemn or plenary courts at the great festivals, or at other times, where the name of knight was always a title to admittance; and the masque of chivalry, if I may use the expression, was acted in pageants and ceremonies, fantastical enough in our apprehension, but well calculated for those heated understandings. Here the peacock and the pheasant, birds of high fame in romance, received the homage of all true knights.† The most singular festival of this kind was that celebrated by Philip duke of Burgundy, in 1453. In the midst of the banquet a pageant was introduced, representing the calamitous state of religion in consequence of the recent capture of Constantinople. This was followed by the appearance of a pheasant, which was laid before the duke, and to which the knights present addressed their vows to undertake a crusade, in the follow-

* St. Palaye, part i.

† Du Cange, 5^{me} Dissertation sur Joinville. St. Palaye, t. i. p. 87. 118. Le Grand, t. i. p. 14.

ing very characteristic preamble: I swear before God my creator, in the first place, and the glorious Virgin his mother, and next before the ladies and the pheasant.* Tournaments were a still more powerful incentive to emulation. These may be considered to have arisen about the middle of the eleventh century; for though every martial people have found diversion in representing the image of war, yet the name of tournaments, and the laws that regulated them, cannot be traced any higher.† Every scenic performance of modern times must be tame in comparison of these animating combats. At a tournament, the space enclosed within the lists was surrounded by sovereign princes and their noblest barons, by knights of established renown, and all that rank and beauty had most distinguished among the fair. Covered with steel, and known only by their emblazoned shield, or by the favours of their mistresses, a still prouder bearing, the combatants rushed forward to a strife without enmity, but not without danger. Though their weapons were pointless, and sometimes only of wood, though they were bound by the laws of tournaments to strike only upon the strong armour of the trunk, or, as it was called, between the four limbs,

* St. Palaye, t. i. p. 191.

† Godfrey de Preuilly, a French knight, is said by several contemporary writers to have invented tournaments: which must of course be understood in a limited sense. The Germans ascribe them to Henry the Fowler; but this, according to Du Cange, is on no authority. 6^{me} Dissertation sur Joinville.

those impetuous conflicts often terminated in wounds and death. The church uttered her excommunications in vain against so wanton an exposure to peril; but it was more easy for her to excite, than to restrain that martial enthusiasm. Victory in a tournament was little less glorious, and perhaps at the moment more exquisitely felt, than in the field; since no battle could assemble such witnesses of valour. "Honour to the sons of the brave" resounded amidst the din of martial music from the lips of the minstrels, as the conqueror advanced to receive the prize from his queen or his mistress; while the surrounding multitude acknowledged in his prowess of that day an augury of triumphs that might in more serious contests be blended with those of his country.*

Both honorary and substantial privileges belonged to the condition of knighthood, and had of course a material tendency to preserve its credit. A knight was distinguished abroad by his crested helmet, his weighty armour whether mail or plate, bearing his heraldic coat, by his gilded spurs, his horse barded with iron, or clothed in housing of gold; at home, by richer silks, and more costly furs than were permitted to squires, and by the appropriated colour of scarlet. He was addressed by titles of

* St. Palaye, part ii. and part iii. au commencement. Du Cange, Dissert. 6 and 7: and Glossary, v. Torneamentum. Le Grand, Fabliaux, t. i. p. 184.

more respect.* Many civil offices, by rule or usage, were confined to his order. But perhaps its chief privilege was to form one distinct class of nobility, extending itself throughout great part of Europe, and almost independent, as to its rights and dignities, of any particular sovereign. Whoever had been legitimately dubbed a knight in one country became, as it were, a citizen of universal chivalry, and might assume most of its privileges in any other. Nor did he require the act of a sovereign to be thus distinguished. It was a fundamental principle that any knight might confer the order; responsible only in his own reputation if he used lightly so high a prerogative. But as all the distinctions of rank might have been confounded, if this right had been without limit, it was an equally fundamental rule, that it could only be exercised in favour of gentlemen.†

* St. Palaye, part iv. Selden's Titles of Honour, p. 806. There was not, however, so much distinction in England as in France.

† St. Palaye, vol. i. p. 70, has forgotten to make this distinction. It is, however, capable of abundant proof. Gunther, in his poem called *Ligurinus*, observes of the Milanese republic:

Quoslibet ex humili vulgo, quod Gallia fœdum
Judicat, accingi gladio concedit equestri.

Otho of Frisingen expresses the same in prose. It is said, in the Establishments of St. Louis, that if any one not being a gentleman on the father's side was knighted, the king or baron in whose territory he resides, may hack off his spurs on a dung-hill. c. 130. The count de Nevers, having knighted a person who was not noble *ex parte paternâ*, was fined in the king's court. The king, however, (Philip III.) confirmed the knight-hood. Daniel, *Hist. de la Milice Française*, p. 98. Fuit propo-

The privileges annexed to chivalry were of peculiar advantage to the vavassors, or inferior gentry, as they tended to counterbalance the influence which

situm, (says a passage quoted by Daniel,) contra comitem Flan-driensem, quod non poterat, nec debebat facere de villano militem, sine auctoritate regis. *ibid.* Statuimus, says James I. of Aragon, in 1234, ut nullus faciat militem nisi filium militis. *Marca Hispanica*, p. 1428. Selden, *Titles of Honour*, p. 592, produces other evidence to the same effect. And the Emperor Sigismund having conferred knighthood, during his stay at Paris in 1415, on a person incompetent to receive it for want of nobility, the French were indignant at his conduct, as an assumption of sovereignty. Villaret, t. xiii. p. 397. We are told however by Giaunone, l. xx. c. 3, that nobility was not in fact required for receiving chivalry at Naples, though it was in France.

The privilege of every knight to associate qualified persons to the order at his pleasure, lasted very long in France; certainly down to the English wars of Charles VII. (Monstrelet, part ii. folio 50.) and, if I am not mistaken, down to the time of Francis I. But in England, where the spirit of independence did not prevail so much among the nobility, it soon ceased. Selden mentions one remarkable instance in a writ of the 29th year of Henry III. summoning tenants in capite to come and receive knighthood from the king, ad recipiendum a nobis arma militaria; and tenants of mesne lords to be knighted by whomsoever they pleased, ad recipiendum arma de quibuscunque voluerint. *Titles of Honour*, p. 792. But soon after this time it became an established principle of our law, that no subject can confer knighthood except by the king's authority. Thus Edward III. grants to a burgess of *Lyndia* in Guienne, (I know not what place this is,) the privilege of receiving that rank at the hands of any knight, his want of noble birth notwithstanding. Rymer, t. v. p. 623. It seems, however, that a different law obtained in some places. Twenty-three of the chief inhabitants of Beaucaire, partly knights, partly burgesses, certified in 1298, that the immemorial usage of Beaucaire and of Provence had been, for burgesses to receive knighthood at the hands of noblemen, without the prince's permission. Vaissette, *Hist. de Languedoc*, t. iii. p. 530. Burgesses, in the great commercial towns, were considered as of a superior class to the roturiers, and possessed a kind of demi-nobility. Charles V. appears to have conceded a similar indulgence to the citizens of Paris. Villaret, t. x. p. 248.

territorial wealth threw into the scale of their feudal suzerains. Knighthood brought these two classes nearly to a level; and it is owing perhaps in no small degree to this institution, that the lower nobility saved themselves, notwithstanding their poverty, from being confounded with the common people.

Lastly, the customs of chivalry were maintained by their connexion with military service. After armies, which we may call comparatively regular, had superseded in a great degree the feudal militia, princes were anxious to bid high for the service of knights, the best equipped and bravest warriors of the time, on whose prowess the fate of battles was for a long period justly supposed to depend. War brought into relief the generous virtues of chivalry, and gave lustre to its distinctive privileges. The rank was sought with enthusiastic emulation through heroic achievements, to which, rather than to mere wealth and station, it was considered to belong. In the wars of France and England, by far the most splendid period of this institution, a promotion of knights followed every success, besides the innumerable cases where the same honour rewarded individual bravery.* It may here be mentioned, that an honorary distinction was made between knights-bannerets and bachelors.† The former were the

* St. Palaye, part iii. passim.

† The word bachelor has been commonly derived from *bas chevalier*; in opposition to *banneret*. But this, however plau-

richest and best accompanied. No man could properly be a banneret, unless he possessed a certain estate, and could bring a certain number of lances into the field.* His distinguishing mark was the square banner, carried by a squire at the point of his lance; while the knight bachelor had only the cornet or pointed pennant. When a banneret was created, the general cut off this point of the pennant to render it square.† But this distinction, however it elevated the banneret, gave him no claim to military command, except over his own dependents, or men at arms. Chandos was still a knight bachelor

sible, is unlikely to be right. We do not find any authority for the expression *bas chevaliers*, nor any equivalent in Latin, *baccalaureus* certainly not suggesting that sense; and it is strange that the corruption should obliterate every trace of the original term. *Bachelour* is a very old word, and is used in early French poetry for a young man, as *bachelette* is for a girl. So also in Chaucer,

“ A yonge Squire,
A lover, and a lusty *bachelor*.”

* Du Cange, *Dissertation 9^{me} sur Joinville*. The number of men at arms, whom a banneret ought to command, was properly fifty. But Olivier de la Marche speaks of twenty-five as sufficient; and it appears that, in fact, knights-banneret often did not bring so many.

† *Ibid.* Olivier de la Marche, (*Collection des Mémoires*, t. viii. p. 337,) gives a particular example of this; and makes a distinction between the bachelor, created a banneret on account of his estate, and the hereditary banneret, who took a public opportunity of requesting the sovereign to unfold his family banner, which he had before borne wound round his lance. The first was said *relever banniere*; the second, *entrer en banniere*. This difference is more fully explained by Daniel, *Hist. de la Milice Française*, p. 116. Chandos's banner was unfolded, not cut, at Navarette. We read sometimes of *esquire-bannerets*, that is of bannerets by descent, not yet knighted.

when he led part of the prince of Wales's army into Spain. He first raised his banner at the battle of Navarette; and the narration that Froissart gives of the ceremony will illustrate the manners of chivalry, and the character of that admirable hero, the conqueror of Du Guesclin and pride of English chivalry, whose fame with posterity has been a little overshadowed by his master's laurels.* What seems more extraordinary is, that mere squires had frequently the command over knights. Proofs of this are almost continual in Froissart. But the vast estimation in which men held the dignity of knighthood led them sometimes to defer it for great part of their lives, in hope of signalizing their investiture by some eminent exploit.

These appear to have been the chief means of nourishing the principles of chivalry among the nobility of Europe. But notwithstanding all encouragement, it underwent the usual destiny of human institutions. St. Palaye, to whom we are indebted for so vivid a picture of ancient manners, ascribes the decline of chivalry in France to the profusion with which the order was lavished under Charles VI., to the establishment of the companies of ordonnance by Charles VII., and to the extension of knightly honours to lawyers, and other men of civil occupations by Francis I.† But the real prin-

* Froissart, part i. c. 241.

† Mém. sur la Chevalerie, part v.

ciple of decay was something different from these three subordinate circumstances, unless so far as it may bear some relation to the second. It was the invention of gunpowder that eventually overthrew chivalry. From the time when the use of fire-arms became tolerably perfect, the weapons of former warfare lost their efficacy, and physical force was reduced to a very subordinate place in the accomplishments of a soldier. The advantages of a disciplined infantry became more sensible; and the lancers, who continued till almost the end of the sixteenth century to charge in a long line, felt the punishment of their presumption and indiscipline. Even in the wars of Edward III., the disadvantageous tactics of chivalry must have been perceptible; but the military art had not been sufficiently studied to overcome the prejudices of men eager for individual distinction. Tournaments became less frequent; and, after the fatal accident of Henry II., were entirely discontinued in France. Notwithstanding the convulsions of the religious wars, the sixteenth century was more tranquil than any that had preceded; and thus a large part of the nobility passed their lives in pacific habits; and, if they assumed the honours of chivalry, forgot their natural connexion with military prowess. This is far more applicable to England, where, except from the reign of Edward III. to that of Henry VI., chivalry, as a military institution, seems not to have

found a very congenial soil;* but under the peaceful reigns of the Tudor dynasty, nothing remained to preserve it from extinction. To these circumstances, immediately affecting the military condition of nations, we must add the progress of reason and literature, which made ignorance discreditable even in a soldier, and exposed the follies of romance to a ridicule, which they were very ill calculated to endure.

The spirit of chivalry left behind it a more valuable successor. The character of knight gradually subsided in that of gentleman; and the one distinguishes European society in the sixteenth and seventeenth centuries, as much as the other did in

* The prerogative exercised by the kings of England of compelling men sufficiently qualified in point of estate to take on them the honour of knighthood was inconsistent with the true spirit of chivalry. This began, according to Lord Lytton, under Henry III. *Hist. of Henry II.* vol. ii. p. 238. Independently of this, several causes tended to render England less under the influence of chivalrous principles, than France or Germany; such as, her comparatively peaceful state, the smaller share she took in the crusades, her inferiority in romances of knight-errantry, but above all, the democratical character of her laws and government. Still this is only to be understood relatively to the two other countries above-named; for chivalry was always in high repute among us, nor did any nation produce more admirable specimens of its excellencies.

I am not minutely acquainted with the state of chivalry in Spain, where it seems to have flourished considerably. Italy, except in Naples, and perhaps Piedmont, displayed little of its spirit; which neither suited the free republics of the twelfth and thirteenth, nor the jealous tyrannies of the following centuries. Yet even here we find enough to furnish Muratori with materials for his 53d dissertation.

preceding ages. A jealous sense of honour, less romantic, but equally elevated, a ceremonious gallantry and politeness, a strictness in devotional observances, an high pride of birth, and feeling of independence upon any sovereign for the dignity it gave, a sympathy for martial honour, though more subdued by civil habits, are the lineaments which prove an indisputable descent. The cavaliers of Charles I. were genuine successors of Edward's knights; and the resemblance is much more striking, if we ascend to the civil wars of the League. Time has effaced much also of this gentlemanly, as it did before of the chivalrous character. From the later part of the seventeenth century, its vigour and purity have undergone a tacit decay, and yielded, perhaps in every country, to increasing commercial wealth, more diffused instruction, the spirit of general liberty in some, and of servile obsequiousness in others, the modes of life in great cities, and the levelling customs of social intercourse.*

* The well-known *Memoirs of St. Palaye* are the best repository of interesting and illustrative facts respecting chivalry. Possibly he may have relied a little too much on romances, whose pictures will naturally be overcharged. Froissart himself has somewhat of this partial tendency, and the manners of chivalrous times do not make so fair an appearance in *Monstrelet*. In the *memoirs of la Tremouille*, (*Collect. des Mém.* t. xiv. p. 169,) we have perhaps the earliest delineation from the life of those severe and stately virtues in high-born ladies, of which our own country furnished so many examples in the sixteenth and seventeenth centuries, and which were derived from the influence of chivalrous principles. And those of Bayard in the same collection, (t. xiv. and xv.,) are a beautiful exhibition of the best effects of that discipline.

It is now time to pass to a very different subject. The third head under which I classed the improvements of society during the four last centuries of the middle ages, was that of literature. But I must apprise the reader not to expect any general view of literary history, even in the most abbreviated manner. Such an epitome would not only be necessarily superficial, but foreign, in many of its details, to the purpose of this chapter, which, attempting to develop the circumstances that gave a new complexion to society, considers literature only so far as it exercised a general and powerful influence. The private researches, therefore, of a single scholar, unproductive of any material effect in his generation, ought not to arrest us, nor indeed would a series of biographical notices, into which literary history is apt to fall, be very instructive to a philosophical inquirer. But I have still a more decisive reason against taking a large range of literary history into the compass of this work, founded on the many contributions which have been made within the last forty years to that department, some of them even since the commencement of my own labour.*

* Four very recent publications, (not to mention that of Buhle on modern philosophy,) enter much at large into the middle literature; those of M. Ginguené, and M. Sismondi, the History of England by Mr. Sharon Turner, and the Literary History of the Middle Ages by Mr. Berington. All of these contain more or less useful information and judicious remarks; but that of Ginguené is among the most learned and important works of this century. I have no hesitation to prefer it, as far as its subjects extend, to Tiraboschi.

These have diffused so general an acquaintance with the literature of the middle ages, that I must, in treating the subject, either compile secondary information from well known books, or enter upon a vast field of reading, with little hope of improving upon what has been already said, or even acquiring credit for original research. I shall therefore confine myself to four points, the study of civil law; the institution of universities; the application of modern languages to literature, and especially to poetry; and the revival of ancient learning.

The Roman law had been nominally preserved ever since the destruction of the empire; and a great portion of the inhabitants of France and Spain, as well as Italy, were governed by its provisions. But this was a mere compilation from the Theodosian code; which itself contained only the more recent laws promulgated after the establishment of Christianity, with some fragments from earlier collections. It was made by order of Alaric, king of the Visigoths, about the year 500, and is frequently confounded with the Theodosian code by writers of the dark ages.* The code of Justinian, reduced into system after the separation of the two former countries from the Greek empire, never obtained any authority in them; nor was it received in the part of Italy subject to the Lombards. But that this body of laws was absolutely

* Heineccius, *Hist. Juris German.* c. i. s. 15.

unknown in the West during any period, seems to have been too hastily supposed. Some of the more eminent ecclesiastics, as Hincmar and Ivon of Chartres, occasionally refer to it, and bear witness to the regard which the church of Rome, (I mean in its particular sense,) had uniformly paid to its decisions.*

The revival of the study of jurisprudence, as derived from the laws of Justinian, has generally been ascribed to the discovery made of a copy of the Pandects at Amalfi, in 1135, when that city was taken by the Pisans. This fact, though not improbable, seems not to rest upon sufficient evidence.† But its truth is the less material, as it appears to be unequivocally proved that the study of Justinian's system had recommenced before that æra. Early in the twelfth century, a professor named Irnerius‡ opened a school of civil law at Bologna, where he commented, if not on the Pandects, yet on the other books, the Institutes and Code, which were sufficient to teach the principles and inspire the love of that comprehensive jurisprudence. The study of law, having thus revived, made a surprizing progress; within fifty years

* Giannone, l. iv. c. 6. Selden, ad Fletam. p. 1071.

† Tiraboschi, t. iii. p. 359. Ginguené, Hist. Litt. de l'Italie, t. i. p. 155.

‡ Irnerius is sometimes called Guarnerius, sometimes Warnerius: the German W. is changed into Gu by the Italians, and occasionally omitted, especially in latinizing, for the sake of euphony or purity.

Lombardy was full of lawyers, on whom Frederic Barbarossa, and Alexander III., so hostile in every other respect, conspired to shower honours and privileges. The schools of Bologna were pre-eminent throughout this century for legal learning. There seem also to have been seminaries at Modena and Mantua; nor was any considerable city without distinguished civilians. In the next age they became still more numerous, and their professors more conspicuous; new universities arose at Naples, Padua, and other places, where the Roman law was the object of peculiar regard.*

There is apparently great justice in the opinion of Tiraboschi, that by acquiring internal freedom and the right of determining controversies by magistrates of their own election, the Italian cities were led to require a more extensive and accurate code of written laws, than they had hitherto possessed. These municipal judges were chosen from among the citizens, and the succession to offices was usually so rapid, that almost every freeman might expect in his turn to partake in the public government, and consequently, in the administration of justice. The latter had always indeed been exercised in the sight of the people by the count and his assessors under the Lombard and Carlovingian sovereigns; but the laws were rude, the proceedings tumultuary, and the decisions perverted by vio-

* Tiraboschi, t. iv. p. 38.; t. v. p. 55.

lence. The spirit of liberty begot a stronger sense of right; and right, it was soon perceived, could only be secured by a common standard. Magistrates, holding temporary offices, and little elevated, in those simple times, above the citizens among whom they were to return, could only satisfy the suitors, and those who surrounded their tribunal, by proving the conformity of their sentences to acknowledged authorities. And the practice of alleging reasons in giving judgment would of itself introduce some uniformity of decision, and some adherence to great rules of justice in the most arbitrary tribunals; while, on the other hand, those of a free country lose part of their title to respect, and of their tendency to maintain right, whenever, either in civil or criminal questions, the mere sentence of a judge is pronounced without explanation of its motives.

The fame of this renovated jurisprudence spread very rapidly from Italy over other parts of Europe. Students flocked from all parts to Bologna; and some eminent masters of that school repeated its lessons in distant countries. One of these, Placentinus, explained the digest at Montpellier before the end of the twelfth century; and the collection of Justinian soon came to supersede the Theodosian code in the dominions of Toulouse.* Its study continued to flourish in the universities of both these

* Tiraboschi, t. v. Vaissette, *Hist. de Languedoc*, t. ii. p. 517.; t. iii. p. 527.; t. iv. p. 504.

cities; and hence the Roman law, as it is exhibited in the system of Justinian, became the rule of all tribunals in the southern provinces of France. Its authority in Spain is equally great, or at least is only disputed by that of the canonists;* and it forms the acknowledged basis of decision in all the Germanic tribunals, sparingly modified by the ancient feudal customaries, which the jurists of the Empire reduce within narrow bounds.† In the northern parts of France, where the legal standard was sought in local customs, the civil law met naturally with less regard. But the code of St. Louis borrows from that treasury many of its provisions, and it was constantly cited in pleadings before the parliament of Paris, either as obligatory by way of authority, or at least as written wisdom, to which great deference was shown.‡ Yet its study was long prohibited in the university of Paris, from a disposition of the popes to establish exclusively their decretals, though the prohibition was silently disregarded.§

* Duck, De Usu Juris civilis, l. ii. c. 6.

† Duck, l. ii. c. 2.

‡ Id. l. ii. c. 5. s. 30, 31. Fleury, Hist. du Droit François, p. 74, (prefixed to Argou, Institutions au Droit François, edit. 1787,) says, that it was a great question among lawyers, and still undecided, (i. e. in 1674,) whether the Roman law was the common law in the pays coutumiers, as to those points wherein their local customs were silent. And, if I understand Denisart, (Dictionnaire des Décisions, art. Droit-écrit,) the affirmative prevailed. However, it is plain by the Causes Célèbres, that appeal was continually made to the principles of the civil law in the *factums* of Parisian advocates.

§ Crevier, Hist. de l'Université de Paris, t. i. p. 316.; t. ii. p. 275.

As early as the reign of Stephen, Vacarius, a lawyer of Bologna, taught at Oxford with great success; but the students of scholastic theology opposed themselves, from some unexplained reason, to this new jurisprudence, and his lectures were interdicted.* About the time of Henry III. and Edward I., the civil law acquired some credit in England; but a system entirely incompatible with it had established itself in our courts of justice; and the Roman jurisprudence was not only soon rejected, but became obnoxious.† Every where, however, the clergy combined its study with that of their own canons; it was a maxim that every canonist must be a civilian, and that no one could be a good civilian unless he were also a canonist. In all universities, degrees are granted in both laws conjointly; and in all courts of ecclesiastical jurisdiction, the authority of Justinian is cited, when that of Gregory or Clement is wanting.‡

I should earn little gratitude for my obscure dili-

* Johan. Salisburiensis, apud Selden ad Fletam, p. 1082.

† Selden, ubi supra, p. 1095—1105. This passage is worthy of attention. Yet, notwithstanding Selden's authority, I am not satisfied that he has not extenuated the effect of Bracton's predilection for the maxims of Roman jurisprudence. No early lawyer has contributed so much to form our own system as Bracton; and if his definitions and rules are sometimes borrowed from the civilians, as all admit, our common law may have indirectly received greater modification from that influence, than its professors were ready to acknowledge, or even than they knew. A full view of this subject is still, I think, a desideratum in the history of English law, which it would illustrate in a very interesting manner.

‡ Duck, De Usu Juris civilis, l. i. c. 87.

gence, were I to dwell on the forgotten teachers of a science, that is likely soon to be forgotten. These elder professors of Roman jurisprudence are infected, as we are told, with the faults and ignorance of their time; failing in the exposition of ancient laws through incorrectness of manuscripts and want of subsidiary learning, or perverting their sense through the verbal subtleties of scholastic philosophy. It appears that, even a hundred years since, neither Azzo and Accursius, the principal civilians of the thirteenth century, nor Bartolus and Baldus, the more conspicuous luminaries of the next age, nor the later writings of Accolti, Fulgosius, and Panormitanus, were greatly regarded as authorities; unless it were in Spain, where improvement is always odious, and the name of Bartolus inspired absolute deference.* In the sixteenth century, Alciatus, and the greater Cujacius, became, as it were, the founders of a new and more enlightened academy of civil law, from which the later jurists derived their lessons. But their names, or at least their writings, are rapidly passing to the gulph that absorbed their predecessors. The stream of literature, that has so remarkably altered its channel within the last century, has left no region more deserted than those of the civil and canon law. Except among the immediate disciples of the papal court, or perhaps in Spain, no man, I suppose,

* Gravina, *Origines Juris civilis*, p. 196.

throughout Europe will ever again undertake the study of the one ; and the new legal systems, which the moral and political revolutions of this age have produced and are likely to diffuse, will leave little influence or importance to the other. Yet, as their character, so their fate will not be altogether similar. The canon law, fabricated only for an usurpation that can never be restored, will become absolutely useless, as if it had never existed ; like a spacious city in the wilderness, though not so splendid and interesting as Palmyra. But the code of Justinian, stripped of its impurer alloy, and of the tedious glosses of its commentators, will form the basis of other systems ; and, mingling, as we may hope, with the new institutions of philosophical legislators, continue to influence the social relations of mankind, long after its direct authority shall have been abrogated. The ruins of ancient Rome supplied the materials of a new city ; and the fragments of her law, which have already been wrought into the recent codes of France and Prussia, will probably, under other names, guide far distant generations by the sagacity of Modestinus and Ulpian.*

* Those, if any such there be, who feel some curiosity about the civilians of the middle ages, will find a concise and elegant account in Gravina, *De Origine Juris civilis*; p. 166—206. (Lips. 1708.) Tiraboschi contains perhaps more information ; but his prolixity, on a theme so unimportant, is very wearisome. Of what use could he think it to discuss the dates of all transactions in the lives of Bartolus and Baldus, (to say nothing of obscurer names,) when nobody was left to care who Baldus

The establishment of public schools in France is owing to Charlemagne. At his accession, we are assured that no means of education existed in his dominions;* and in order to restore in some degree the spirit of letters, he was compelled to invite strangers from countries where learning was not so thoroughly extinguished. Alcuin of England, Clement of Ireland, Theodulf of Germany, were the true Paladins who repaired to his court. With the help of these he revived a few sparks of diligence, and established schools in different cities of his empire, nor was he ashamed to be the disciple of that in his own palace under the care of Alcuin.† His two next successors, Louis the Debonair, and Charles the Bald, were also encouragers of letters; and the schools of Lyons, Fulda, Corvey, Rheims, and some other cities might be said to flourish in the ninth century.‡ In these were taught the trivium and quadrivium, a long established division of sciences; the first comprehending grammar, or what

and Bartolus were? Besides this fault it is evident that Tiraboschi knew very little of law, and had not read the civilians of whom he treats; whereas Gravina discusses their merits not only with legal knowledge, but with an acuteness of criticism, which, to say the truth, Tiraboschi never shows except on a date or a name.

* Ante ipsum dominum Carolum regem in Galliâ nullum fuit studium liberalium artium. Monachus Engolismensis, apud Launoy, De Scholis per occidentem instauratis, p. 5. See too *Histoire Littéraire de la France*, t. iv. p. 1.

† Id. *ibid.* There was a sort of literary club among them, where the members assumed ancient names. Charlemagne was called David; Alcuin, Horace; another Dametas. &c.

‡ *Hist. Littéraire*, p. 217, &c.

we now call philology, logic and rhetoric; the second music, arithmetic, geometry and astronomy.* But in those ages scarcely any body mastered the latter four; and to be perfect in the three former was exceedingly rare. All those studies, however, were referred to theology, and that in the narrowest manner: music, for example, being reduced to church chanting; and astronomy, to the calculation of Easter.† Alcuin forbade the Latin poets to be read;‡ and this discouragement of secular learning was very general; though some, as for instance Raban, permitted a slight tincture of it, as subsidiary to religious instruction.§

About the latter part of the eleventh century, a greater ardour for intellectual pursuits began to show itself in Europe, which in the twelfth broke out into a flame. This was manifested in the numbers who repaired to the public academies, or schools of philosophy. None of these grew so early into reputation as that of Paris. This cannot, indeed, as has been vainly pretended, trace its pedigree to Charlemagne. The first who is said to have read lectures at Paris was Remigius of Auxerre, about the year 900.|| For the two next centuries the his-

* This division of the sciences is ascribed to St. Augustin; and was certainly established early in the sixth century. Brucker, *Historia Critica Philosophiæ*, t. iii. p. 597.

† Schmidt, *Hist. des Allemands*, t. ii. p. 126.

‡ Crevier, *Hist. de l'Université de Paris*, t. i. p. 28.

§ Brucker, t. iii. p. 612. Raban Maurus was chief of the cathedral school at Fulda, in the ninth century.

|| Crevier, p. 66.

tory of this school is very obscure; and it would be hard to prove an unbroken continuity, or at least a dependence and connexion of its professors. In the year 1100, we find William of Champeaux teaching logic, and apparently some higher parts of philosophy, with much credit. But this preceptor was eclipsed by his disciple, afterwards his rival and adversary, Peter Abelard, to whose brilliant and hardy genius the university of Paris appears to be indebted for its rapid advancement. Abelard was almost the first who awakened mankind in the age of darkness to a sympathy with intellectual excellence. His bold theories, not the less attractive perhaps for treading upon the bounds of heresy, his imprudent vanity, that scorned the regularly acquired reputation of older men, allured a multitude of disciples, who would never have listened to an ordinary teacher. It is said, that twenty cardinals and fifty bishops had been among his hearers.* Even in the wilderness, where he had erected the monastery of Paraclete, he was surrounded by enthusiastic admirers, relinquishing the luxuries, if so they might be called, of Paris, for the coarse living and imperfect accommodation which that retirement could afford.† But the whole of Abelard's life was the shipwreck of genius; and of genius, both the source of his own calamities, and unserviceable to posterity. There are few lives of literary men more

* Crevier, p. 171. Brucker, p. 677. Tiraboschi, t. iii. p. 275.

† Brucker, p. 750.

interesting, or more diversified by success and adversity, by glory and humiliation, by the admiration of mankind and the persecution of enemies; nor from which, I may add, more impressive lessons of moral prudence may be derived. One of Abelard's pupils was Peter Lombard, afterwards archbishop of Paris, and author of a work, called the *Book of Sentences*, which obtained the highest authority among the scholastic disputants. The resort of students to Paris became continually greater; they appear, before the year 1169, to have been divided into nations;* and probably they had an elected rector and voluntary rules of discipline about the same time. This, however, is not decisively proved; but in the last year of the twelfth century, they obtained their earliest charter from Philip Augustus.†

The opinion which ascribes the foundation of the university of Oxford to Alfred, if it cannot be maintained as a truth, contains no intrinsic marks of error. Ingulfus, abbot of Croyland, in the earliest authentic passage that can be adduced to this point,‡ declares that he was sent from Westmin-

* The faculty of arts in the university of Paris was divided into four nations; those of France, Picardy, Normandy, and England. These had distinct suffrages in the affairs of the university, and consequently, when united, out-numbered the three higher faculties of theology, law and medicine. In 1169, Henry II. of England offers to refer his dispute with Becket to the provinces of the school of Paris.

† Crevier, t. i. p. 279. The first statute regulating the discipline of the university was given by Robert de Courçon, legate of Honorius III., in 1215, id. p. 296.

‡ No one probably would choose to rely on a passage found

ster to the school at Oxford, where he learned Aristotle, and the two first books of Tully's rhetoric.* Since a school for dialectics and rhetoric subsisted at Oxford, a town of but middling size, and not the seat of a bishop, we are naturally led to refer its foundation to one of our kings; and none who reigned after Alfred appears likely to have manifested such zeal for learning. However, it is evident that the school of Oxford was frequented under Edward the Confessor. There follows an interval of above a century, during which, we have, I believe, no contemporary evidence of its continuance. But in the reign of Stephen, Vacarius read lectures there upon civil law; and it is reasonable to suppose that a foreigner would not have chosen that city, if he had not found a seminary of learning already established. It was probably inconsiderable, and might have

in one manuscript of Asserius, which has all appearance of an interpolation. It is evident from an anecdote in Wood's History of Oxford, vol. i. p. 23, (Gutch's edition,) that Camden did not believe in the authenticity of this passage, though he thought proper to insert it in the Britannia.

* The mention of Aristotle at so early a period might seem to throw some suspicion on this passage. But it is impossible to detach it from the context; and the works of Aristotle intended by Ingulfus were translations of parts of his logic by Boethius and Victorin. Brucker, p. 678. A passage indeed in Peter of Blois's continuation of Ingulfus, where the study of Averroes is said to have taken place at Cambridge some years before he was born, is of a different complexion, and must of course be rejected as spurious. In the Gesta Comitum Andegavensium, Fulk, count of Anjou, who lived about 920, is said to have been skilled Aristotelicis et Ciceronianis ratiocinationibus.

been interrupted during some part of the preceding century.* In the reign of Henry II., or at least of Richard I., Oxford became a very flourishing university, and in 1201, according to Wood, contained 3000 scholars.† The earliest charters were granted by John.

If it were necessary to construe the word university in the strict sense of a legal incorporation, Bologna might lay claim to a higher antiquity than either Paris or Oxford. There are a few vestiges of studies pursued in that city even in the eleventh century:‡ but early in the next, the revival of the Roman jurisprudence, as has been already noticed, brought a throng of scholars round the chairs of its professors. Frederic Barbarossa in 1158, by his authentic or rescript intitled *Habita*, took these under his protection, and permitted them, in civil suits, to be tried by their own judges. This exemption from the ordinary tribunals, and even from those of the church, was naturally coveted by other academies; it was granted to the university of Paris by its earliest charter from Philip Augustus,

* It may be remarked, that John of Salisbury, who wrote in the first years of Henry II's reign, since his *Policraticus* is dedicated to Becket, before he became archbishop, makes no mention of Oxford, which he would probably have done, if it had been an eminent seat of learning at that time.

† Wood's *Hist. and Antiquities of Oxford*, p. 177. The Benedictins of St. Maur say, that there was an eminent school of canon law at Oxford about the end of the twelfth century, to which many students repaired from Paris. *Hist. Litt. de la France*, t. ix. p. 216.

‡ Tiraboschi, t. iii. p. 259. and alibi. Muratori. *Dissert.* 43.

and to Oxford by John. From this time the golden age of universities commenced; and it is hard to say, whether they were favoured most by their sovereigns, or by the see of Rome. Their history indeed is full of struggles with the municipal authorities, and with the bishops of their several cities; wherein they were sometimes the aggressors, and generally the conquerors. From all parts of Europe students resorted to these renowned seats of learning with an eagerness for instruction which may astonish those who reflect how little of what we now deem useful could be imparted. At Oxford under Henry III., it is said that there were 30,000 scholars; an exaggeration which seems to imply that the real number was very great.* A respectable contemporary writer asserts that there were full 10,000 at Bologna about the same time.† I have not observed any numerical statement as to Paris during this age; but there can be no doubt that it was more frequented than any other. At

* "But among these," says Anthony Wood, "a company of varlets, who pretended to be scholars, shuffled themselves in, and did act much villainy in the university by thieving, whoring, quarrelling, &c. They lived under no discipline, neither had they tutors; but only for fashion sake would sometimes thrust themselves into the schools at ordinary lectures, and when they went to perform any mischief, then would they be accounted scholars, that so they might free themselves from the jurisdiction of the burghers," p. 206. If we allow three varlets to one scholar, the university will still have been very fully frequented by the latter.

† Tiraboschi, t. iv. p. 47. Azarius, about the middle of the fourteenth century, says the number was about 13,000 in his time. Muratori, *Script. Rer. Ital.* t. xvi. p. 325.

the death of Charles VII. in 1453, it contained 25,000 students.* In the thirteenth century, other universities sprung up in different countries; Padua and Naples under the patronage of Frederic II., a zealous and useful friend to letters;† Toulouse and Montpellier, Cambridge and Salamanca.‡ Orleans, which had long been distinguished as a school of civil law, received the privileges of incorporation early in the fourteenth century; and Angers before the expiration of the same age.§ Prague, the earliest and most eminent of German universities, was founded in 1350; a secession from thence of Saxon students in consequence of the nationality of the Bohemians, and the Hussite schism, gave rise to that of Leipsic.|| The fifteenth century pro-

* Villaret, *Hist. de France*, t. xvi. p. 341. This may perhaps require to be taken with allowance. But Paris owes a great part of its buildings on the southern bank of the Seine to the university. The students are said to have been about 12,000 before 1480. Crevier, t. iv. p. 410.

† Tiraboschi, t. iv. p. 43, and 46.

‡ The earliest authentic mention of Cambridge as a place of learning, if I mistake not, is in Matthew Paris, who informs us, that in 1209, John having caused three clerks of Oxford to be hanged on suspicion of murder, the whole body of scholars left that city, and emigrated some to Cambridge, some to Reading, in order to carry on their studies, (p. 191, edit. 1684.) But it may be conjectured with some probability, that they were led to a town so distant as Cambridge by the previous establishment of academical instruction in that place. The incorporation of Cambridge is in 1231, (15 Hen. III.) so that there is no great difference in the legal antiquity of our two universities.

§ Crevier, *Hist. de l'Université de Paris*, t. ii. p. 216.; t. iii. p. 140.

|| Pfeffel, *Abrégé Chronologique de l'Hist. de l'Allemagne*, p. 530. 607.

duced several new academical foundations in France and Spain.

A large proportion of scholars, in most of those institutions, were drawn by the love of science from foreign countries. The chief universities had their own particular departments of excellence. Paris was unrivalled for scholastic theology; Bologna and Orleans, and afterwards Bourges, for jurisprudence; Montpellier for medicine. Though national prejudices, as in the case of Prague, sometimes interfered with this free resort of foreigners to places of education, it was in general a wise policy of government, as well as of the universities themselves, to encourage it. The thirty-fifth article of the peace of Bretigni provides for the restoration of former privileges to students respectively in the French and English universities.* Various letters patent will be found in Rymer's collection, to secure Scottish as well as French natives, a safe passage to their place of education. The English nation, including, however, the Flemings and Germans,† had a separate vote in the faculty of Arts at Paris. But foreign students were not, I believe, so numerous in the English academies.

If endowments and privileges are the means of quickening a zeal for letters, they were liberally bestowed in the three last of the middle ages. Crevier enumerates fifteen colleges founded in the uni-

* Rymer, t. vi. p. 292.

† Crevier, t. ii. p. 398.

versity of Paris during the thirteenth century, besides one or two of a still earlier date. Two only, or at most three, existed in that age at Oxford, and but one at Cambridge. In the next two centuries these universities could boast, as every one knows, of many splendid foundations; though much excelled in number by those of Paris. Considered as ecclesiastical institutions, it is not surprising that the universities obtained, according to the spirit of their age, an exclusive cognizance of civil or criminal suits affecting their members. This jurisdiction was, however, local as well as personal, and in reality encroached on the regular police of their cities. At Paris the privilege turned to a flagrant abuse, and gave rise to many scandalous contentions.* Still more valuable advantages were those relating to ecclesiastical preferments, of which a large proportion was reserved in France to academical graduates. Something of the same sort, though less extensive, may still be traced in the rules affecting plurality of benefices in our English church.

This remarkable and almost sudden transition from a total indifference to all intellectual pursuits cannot be ascribed perhaps to any general causes. The restoration of the civil, and the formation of the canon law, were indeed eminently conducive to it, and a large proportion of scholars in most universi-

* Crevier and Villaret, *passim*.

ties confined themselves to jurisprudence. But the chief attraction to the studious was the new scholastic philosophy. The love of contention, especially with such arms as the art of dialectics supplies to an acute understanding, is natural enough to mankind. That of speculating upon the mysterious questions of metaphysics and theology is not less so. These disputes and speculations, however, appear to have excited little interest, till, after the middle of the eleventh century, Roscelin, a professor of logic, revived the old question of the Grecian schools respecting universal ideas, the reality of which he denied. This kindled a spirit of metaphysical discussion, which Lanfranc and Anselm, successively archbishops of Canterbury, kept alive; and in the next century Abelard and Peter Lombard, especially the latter, completed the scholastic system of philosophizing. The logic of Aristotle seems to have been partly known in the eleventh century, although that of Augustin was perhaps in higher estimation;* in the twelfth it obtained more decisive influence. His metaphysics, to which the logic might be considered as preparatory, were introduced through translations from the Arabic, and perhaps also from the Greek, early in the ensuing century.† This

* Brucker, *Hist. Crit. Philosophiæ*, t. iii. p. 678.

† *Id. ibid.* Tiraboschi conceives that the translations of Aristotle, made by command of Frederic II. were directly from the Greek, t. iv. p. 145; and censures Brucker for the contrary opinion. Buhle, however, (*Hist. de la Philosophie Moderne*, t. i. p. 696,) appears to agree with Brucker. It is almost certain, that versions were made from the Arabic Aris-

work, condemned at first by the decrees of the popes and councils, on account of its supposed tendency to atheism, acquired by degrees an influence, to which even popes and councils were obliged to yield. The Mendicant Friars, established throughout Europe in the thirteenth century, greatly contributed to promote the Aristotelian philosophy; and its final reception into the orthodox system of the church may chiefly be ascribed to Thomas Aquinas, the boast of the Dominican order, and certainly the most distinguished metaphysician of the middle ages. His authority silenced all scruples as to that of Aristotle, and the two philosophers were treated with equally implicit deference by the later schoolmen.*

totle; which itself was not immediately taken from the Greek, but from a Syriac medium. Ginguené, *Hist. Litt. de l'Italie*, t. i. p. 212, (on the authority of M. Langlés.)

It was not only a knowledge of Aristotle that the scholastics of Europe derived from the Arabic language. His writings had produced in the flourishing Mohammedan kingdoms a vast number of commentators and of metaphysicians trained in the same school. Of these Averroes, a native of Corduba, who died early in the thirteenth century, was the most eminent. It would be curious to examine more minutely than has hitherto been done the original writings of these famous men, which no doubt have suffered in translation. A passage from Al Gazel, which Mr. Turner has rendered from the Latin, with all the disadvantage of a double remove from the author's words, appears to state the argument in favour of that class of *nominalists*, called *conceptualists*, (the only *realists* who remain in the present age,) with more clearness and precision than any thing I have seen from the schoolmen. Al Gazel died in 1126, and consequently might have suggested this theory to Abelard, which however is not probable. Turner's *Hist. of Engl.* vol. i. p. 513.

* Brucker, *Hist. Crit. Philosophiæ*, t. iii. I have found no better guide than Brucker. But he confesses himself not to

This scholastic philosophy, so famous for several ages, has since passed away and been forgotten. The history of literature, like that of empire, is full of revolutions. Our public libraries are cemeteries of departed reputation; and the dust accumulating upon their untouched volumes speaks as forcibly as the grass that waves over the ruins of Babylon. Few, very few, for a hundred years past, have broken the repose of the immense works of the schoolmen. None perhaps in our own country have acquainted themselves particularly with their contents. Leibnitz, however, expressed a wish that some one conversant with modern philosophy would undertake to extract the scattered particles of gold which may be hid in their abandoned mines. This wish has been at length partially fulfilled by three or four of those industrious students, and keen metaphysicians, who do honour to modern Germany. But most of their works are unknown to me except by repute; and as they all appear to be formed on a very extensive plan, I doubt whether even those laborious men could afford adequate time for this ungrateful research. Yet we cannot pretend to deny, that Roscelin, Anselm, Abelard, Peter Lombard,

have read the original writings of the scholastics; an admission which every reader will perceive to be quite necessary. Consequently, he gives us rather a verbose declamation against their philosophy, than any clear view of its character. Of the valuable works lately published in Germany on the history of philosophy, I have only seen that of Buhle, which did not fall into my hands till I had nearly written these pages. Tiedeman and Tenneman are, I believe, still untranslated.

Albertus Magnus, Thomas Aquinas, Duns Scotus, and Ockham, were men of acute and even profound understandings, the giants of their own generation. Even with the slight knowledge we possess of their tenets, there appear through the cloud of repulsive technical barbarisms rays of metaphysical genius which this age ought not to despise. Thus in the works of Anselm is found the celebrated argument of Des Cartes for the existence of a Deity, deduced from the idea of an infinitely perfect being. One great object that most of the schoolmen had in view was to establish the principles of natural theology by abstract reasoning. This reasoning was doubtless liable to great difficulties. But a modern writer, who seems tolerably acquainted with the subject, assures us that it would be difficult to mention any theoretical argument to prove the divine attributes, or any objection capable of being raised against the proof, which we do not find in some of the scholastic philosophers.* The most celebrated subjects of discussion, and those on which this class of reasoners were most divided, were the reality of universal ideas, considered as extrinsic to the human mind, and the freedom of will. These have not ceased to occupy the thoughts of metaphysicians; but it will generally be allowed that the prevalence of the Realists in the former question

* Buble, *Hist. de la Philos. Moderne*, t. i. p. 723. This author raises upon the whole a favourable notion of Anselm and Aquinas; but he hardly notices any other.

does not give a favourable impression of the scholastic system.*

But all discovery of truth by means of these controversies was rendered hopeless by two insurmountable obstacles, the authority of Aristotle, and that of the church. Wherever obsequious reverence is substituted for bold inquiry, truth, if she is not already at hand, will never be attained. The scholastics did not understand Aristotle, whose original writings they could not read;† but his name was

* Mr. Turner has, with his characteristic spirit of enterprise, examined some of the writings of our chief English schoolmen, Duns Scotus and Ockham, (*Hist. of Engl. vol. i.*) and even given us some extracts from them. They seem to me very frivolous, so far as I can collect their meaning. Ockham in particular falls very short of what I had expected; and his nominalism is strangely different from that of Berkeley. We can hardly reckon a man in the right, who is so by accident, and through sophistical reasoning. However, a well known article in the *Edinburgh Review*, No. LIII. p. 204, gives, from Tenneman, a more favourable account of Ockham.

Perhaps I may have imagined the scholastics to be more forgotten than they really are. Within a short time, I have met with four living English writers who have read parts of Thomas Aquinas; Mr. Turner, Mr. Berington, Mr. Coleridge and the *Edinburgh Reviewer*. Still I cannot bring myself to think, that there are four more in this country, who could say the same. Certain portions, however, of his writings are still read in the course of instruction of some Catholic universities.

† Roger Bacon, by far the truest philosopher of the middle ages, complains of the ignorance of Aristotle's translators. Every translator, he observes, ought to understand his author's subject, and the two languages from which and into which he is to render the work. But none hitherto, except Boethius, have sufficiently known the languages: nor has one, except Robert Grossetete, (the famous bishop of Lincoln,) had a competent acquaintance with science. The rest make egregious errors in both respects. And there is so much misapprehension and obscurity in the Aristotelian writings as thus translated, that no one understands them. *Opus Majus*, p. 45.

received with implicit faith. They learned his peculiar nomenclature, and fancied that he had given them realities. The authority of the church did them still more harm. It has been said, and probably with much truth, that their metaphysics were injurious to their theology. But I must observe in return, that their theology was equally injurious to metaphysics. Their disputes continually turned upon questions either involving absurdity and contradiction, or at best inscrutable by human comprehension. Those who assert the greatest antiquity of the catholic doctrine, as to the real presence, allow, that both the word and the definition of transubstantiation are owing to the scholastic writers. Their subtleties were not always so well received. They reasoned at imminent peril of being charged with heresy, which Roscelin, Abelard, Lombard, and Ockham did not escape. In the virulent factions that arose out of their metaphysical quarrels, either party was eager to expose its adversary to detraction and persecution. The Nominalists were accused, one hardly sees why, with reducing, like Sabellius, the persons of the Trinity to modal distinctions. The Realists, with more pretence, incurred the imputation of holding a language that savoured of atheism.* In the controversy which the

* Brucker, p. 733. 912. Mr. Turner has fallen into some confusion as to this point, and supposes the nominalist system to have had a pantheistical tendency, not clearly apprehending its characteristics, p. 512.

Dominicans and Franciscans, disciples respectively of Thomas Aquinas and Duns Scotus, maintained about grace and free-will, it was of course still more easy to deal in mutual reproaches of heterodoxy. But the schoolmen were in general prudent enough not to defy the censures of the church; and the popes, in return for the support they gave to all exorbitant pretensions of the Holy See, connived at this factious wrangling, which threatened no serious mischief, as it did not proceed from an independent spirit of research. Yet with all their apparent conformity to the received creed, there was, as might be expected from the circumstances, a great deal of real deviation from orthodoxy, and even of infidelity. The scholastic mode of dispute, admitting of no termination, and producing no conviction, was the sure cause of scepticism; and the system of Aristotle, especially with the commentaries of Averroes, bore an aspect very unfavourable to natural religion.* The Aristotelian philosophy, even in the hands of the Master, was like a barren tree, that conceals its want of fruit by profusion of leaves. But the scholastic ontology was much worse. What could be more trifling than

* Petrarch gives a curious account of the irreligion that prevailed among the learned at Venice and Padua, in consequence of their unbounded admiration for Aristotle and Averroes. One of this school, conversing with him, after expressing much contempt for the Apostles and Fathers, exclaimed: *Utinam tu Averroim pati posses, ut videres quanto ille tuis his nugatoribus major sit!* *Mém. de Pétrarque, t. iii. p. 759. Tiraboschi, t. v. p. 162.*

disquisitions about the nature of angels, their modes of operation, their means of conversing, or, (for these were distinguished,) the morning and evening state of their understandings? * Into these follies the schoolmen appear to have launched, partly because there was less danger of running against an heresy, in a matter where the church had defined so little; partly from their presumption, which disdained all inquiries into the human mind, as merely a part of physics; and in no small degree through a spirit of mystical fanaticism, derived from the oriental philosophy, and the later Platonists, which blended itself with the cold-blooded technicalities of the Aristotelian school. † But this unproductive waste

* Brucker, p. 898.

† This mystical philosophy appears to have been introduced into Europe by John Scotus, whom Buhle treats as the founder of the scholastic philosophy: though as it made no sensible progress for two centuries after his time, it seems more natural to give that credit to Roscelin and Anselm. Scotus, or Erigena, as he is perhaps more frequently called, took up, through the medium of a spurious work, ascribed to Dionysius the Areopagite, that remarkable system, which has from time immemorial prevailed in some schools of the east, wherein all external phænomena, as well as all subordinate intellects, are considered as *emanating* from the Supreme being, into whose essence they are hereafter to be absorbed. This system, reproduced under various modifications, and combined with various theories of philosophy and religion, is perhaps the most congenial to the spirit of solitary speculation, and consequently the most extensively diffused of any which those high themes have engendered. It originated no doubt in sublime conceptions of divine omnipotence and ubiquity. But clearness of expression, or indeed of ideas, being not easily connected with mysticism, the language of philosophers adopting the theory of emanation is often hardly distinguishable from that of the pantheists. Brucker, very unjustly, as I imagine from the passages he quotes, accuses John Erigena of pantheism. (Hist. Crit.

of the faculties could not last for ever. Men discovered that they had given their time for the promise of wisdom, and been cheated in the bargain. What John of Salisbury observes of the Parisian dialecticians in his own time, that after several years absence, he found them not a step advanced, and still employed in urging and parrying the same arguments, was equally applicable to the period of centuries. After three or four hundred years, the scholastics had not untied a single knot, nor added one unequivocal truth to the domain of philosophy. As this became more evident, the enthusiasm for that kind of learning declined; after the middle of the fourteenth century, few distinguished teachers arose among the schoolmen, and at the revival of letters, their pretended science had no advocates left, but among the prejudiced or ignorant adherents of established systems. How different is the state of genuine philosophy, the zeal for which will never wear out by length of time or change of fashion, because the inquirer, unrestrained by au-

Philos. p. 620.) The charge would, however, be better grounded against some whose style might deceive an unaccustomed reader. In fact, the philosophy of emanation leads very nearly to the doctrine of an universal substance, which begot the atheistic system of Spinoza, and which appears to have revived with similar consequences among the metaphysicians of Germany. How very closely the language of this oriental philosophy, or even of that which regards the Deity as the soul of the world, may verge upon pantheism, will be perceived, (without the trouble of reading the first book of Cudworth,) from two famous passages of Virgil and Lucan. Georg. l. iv. v. 219.; and Pharsalia, l. viii. v. 578.

thority, is perpetually cheered by the discovery of truth in researches, which the boundless riches of nature seem to render indefinitely progressive!

Yet, upon a general consideration, the attention paid in the universities to scholastic philosophy may be deemed a source of improvement in the intellectual character, when we compare it with the perfect ignorance of some preceding ages. Whether the same industry would not have been more profitably directed, if the love of metaphysics had not intervened, is another question. Philology, or the principles of good taste, degenerated through the prevalence of school-logic. The Latin compositions of the twelfth century are better than those of the three that followed; at least on the northern side of the Alps. I do not, however, conceive that any real correctness of taste, or general elegance of style were likely to subsist in so imperfect a condition of society. These qualities seem to require a certain harmonious correspondence in the tone of manners before they can establish a prevalent influence over literature. A more real evil was the diverting studious men from mathematical science. Early in the twelfth century, several persons, chiefly English, had brought into Europe some of the Arabian writings on geometry and physics. In the thirteenth the works of Euclid were commented upon by Campano;* and Roger Bacon was fully ac-

* Tiraboschi. t. iv. p. 150.

quainted with them.* Algebra, so far as the Arabians knew it, extending to quadratic equations, was actually in the hands of some Italians at the commencement of the same age, and preserved for almost three hundred years as a secret, though without any conception of its importance. As abstract mathematics require no collateral aid, they may reach the highest perfection in ages of general

* There is a very copious and sensible account of Roger Bacon in Wood's History of Oxford, vol. i. p. 332, (Gutch's edition.) I am a little surprised that Antony should have found out Bacon's merit. It is like an oyster judging of a line of battle ship. But I ought not to gibe at the poor antiquary, when he shows good sense.

The resemblance between Roger Bacon and his greater namesake is very remarkable. Whether Lord Bacon ever read the *Opus Majus*, I know not, but it is singular, that his favourite quaint expression, *prærogativæ scientiarum*, should be found in that work. And whoever reads the sixth part of the *Opus Majus*, upon experimental science, must be struck by it as the prototype, in spirit, of the *Novum Organum*. The same sanguine and sometimes rash confidence in the effect of physical discoveries, the same fondness for experiment, the same preference of inductive to abstract reasoning, pervade both works. Roger Bacon's philosophical spirit may be illustrated by the following passage: Duo sunt modi cognoscendi; scilicet per argumentum et experimentum. Argumentum concludit et facit nos concludere questionem; sed non certificat neque removet dubitationem, ut quiescat animus in intuitu veritatis, nisi eam inveniat viâ experientiæ; quia multi habent argumenta ad scibilia, sed quia non habent experientiam, negligunt ea, neque vitant nociva nec persequuntur bona. Si enim aliquis homo, qui nunquam vidit ignem, probavit per argumenta sufficientia quod ignis comburit et lædit res et destruit, nunquam propter hoc quiesceret animus audientis, nec ignem vitaret antequam poneret manum vel rem combustibilem ad ignem, ut per experientiam probaret quod argumentum edocebat; sed assumptâ experientiâ combustionis certificatur animus et quiescit in fulgore veritatis, quo argumentum non sufficit, sed experientia, p. 446.

barbarism; and there seems to be no reason why, if the course of study had been directed that way, there should not have arisen a Newton or a La Place, instead of an Aquinas or an Ockham. The knowledge displayed by Roger Bacon, and by Albertus Magnus, even in the mixed mathematics, under every disadvantage from the imperfection of instruments, and the want of recorded experience, are sufficient to inspire us with regret that their contemporaries were more inclined to astonishment than to emulation. These inquiries indeed were subject to the ordeal of fire, the great purifier of books and men; for if the metaphysician stood a chance of being burned as a heretic, the natural philosopher was in not less jeopardy as a magician.*

A far more substantial cause of intellectual improvement was the development of those new languages that sprung out of the corruption of Latin. For three or four centuries after what was called the romance tongue was spoken in France, there remain but few vestiges of its employment in writing; though we cannot draw an absolute inference from our want of proof, and a critic of much authority supposes translations to have been made into it for religious purposes, from the time of Charlemagne.† During this period the language was split into two very separate dialects, the regions of which may be considered, though by no means strictly, as divided

* See the fate of Cecco d'Ascoli in Tiraboschi, t. v. p. 174.

† Le Bœuf, Mém. de l'Acad. des Inscript. t. xvii. p. 711.

by the Loire. These were called the Langue d'Oil, and the Langue d'Oc; or, in more modern terms, the French and Provençal dialects. In the latter of these I know of nothing which can even by name be traced beyond the year 1100. About that time, Gregory de Bechada, a gentleman of Limousin, recorded the memorable events of the first crusade, then recent, in a metrical history of great length.* This poem has altogether perished; which, considering the popularity of its subject, as M. Sismondi justly remarks, would probably not have been the case if it had possessed any merit. But very soon afterwards a multitude of poets, like a swarm of summer insects, appeared in the southern provinces of France. These were the celebrated Troubadours, whose fame depends far less on their positive excellence, than on the darkness of preceding ages, on the temporary sensation they excited, and their permanent influence on the state of European poetry. From William count of Poitou, the earliest troubadour on record, who died in 1126, to their extinction about the end of the next century, there were

* Gregorius, cognomento Bechada, de Castro de Turribus, professione miles, subtilissimi ingenii vir, aliquantulum imbutus literis, horum gesta præcliorum maternâ linguâ rythmo vulgari, ut populus pleniter intelligeret, ingens volumen decenter composuit, et ut vera et faceta verba proferret, duodecim annorum spatium super hoc opus operam dedit. Ne verò vilesceret propter verbum vulgare, non sine præcepto episcopi Eustorgii, et consilio Gauberti Normanni, hoc opus aggressus est. I transcribe this from M. Heeren's *Essai sur les Croisades*, p. 447.; whose reference is to Labbé, *Bibliotheca nova MSS.* t. ii. p. 296.

probably several hundred of these versifiers in the language of Provence, though not always natives of France. Millot has published the lives of one hundred and forty-two, besides the names of many more whose history is unknown; and a still greater number, it cannot be doubted, are unknown by name. Among those poets are reckoned a king of England, (Richard I.,) two of Aragon, one of Sicily, a dauphin of Auvergne, a count of Foix, a prince of Orange, many noblemen, and several ladies. One can hardly pretend to account for this sudden and transitory love of verse; but it is manifestly one symptom of the rapid impulse which the human mind received in the twelfth century, and contemporaneous with the severer studies that began to flourish in the universities. It was encouraged by the prosperity of Languedoc and Provence, undisturbed, comparatively with other countries, by internal warfare, and disposed by the temper of their inhabitants to feel with voluptuous sensibility the charm of music and amorous poetry. But the tremendous storm that fell upon Languedoc in the crusade against the Albigeois shook off the flowers of Provençal verse; and the final extinction of the fief of Toulouse, with the removal of the counts of Provence to Naples, deprived the troubadours of their most eminent patrons. An attempt was made in the next century to revive them, by distribution of prizes for the best composition in the Floral Games of Toulouse, which have some-

times been erroneously referred to a higher antiquity.* This institution perhaps still remains; but, even in its earliest period, it did not establish the name of any Provençal poet. Nor can we deem those fantastical solemnities, styled Courts of Love, where ridiculous questions of metaphysical gallantry were debated by poetical advocates, under the presidency and arbitration of certain ladies, much calculated to bring forward any genuine excellence. They illustrate, however, what is more immediately my own object, the general ardour for poetry, and the manners of those chivalrous ages.†

The great reputation acquired by the troubadours, and panegyrics lavished on some of them by Dante and Petrarch excited a curiosity among literary men, which has been a good deal disappointed by further acquaintance. An excellent French antiquary of the last age, La Curne de St. Palaye, spent great part of his life in accumulating manuscripts of Provençal poetry, very little of which had ever been printed. Translations from part of this

* De Sade, *Vie de Pétrarque*, t. i. p. 155. Sismondi, *Litt. du Midi*, t. i. p. 228.

† For the Courts of Love, see De Sade, *Vie de Pétrarque*, t. ii. note 19. Le Grand, *Fabliaux*, t. i. p. 270. Roquefort, *Etat de la Poésie Française*, p. 94. I have never had patience to look at the older writers who have treated this tiresome subject. It is a satisfaction to reflect that the country which has produced more eminent and original poets than any other, has never been infected by the fopperies of academies and their prizes. Such an institution as the Society degli Arcadi could at no time have endured public ridicule in England for a fortnight.

collection, with memorials of the writers, were published by Millot; and we certainly do not often meet with passages in his three volumes which give us any poetical pleasure.* Some of the original poems have since been published, and the extracts made from them by the recent historians of southern literature are rather superior. The troubadours chiefly confined themselves to subjects of love, or rather gallantry, and to satires, (sirventes,) which are sometimes keen and spirited. No romances of chivalry, and hardly any tales, are found among their works. There seems a general deficiency of imagination, and especially of that vivid description which distinguishes works of genius in the rudest period of society. In the poetry of sentiment, their favourite province, they seldom attain any natural expression, and consequently produce no interest. I speak of course on the presumption that the best specimens have been exhibited by those who have undertaken the task. It must be allowed, however, that we cannot judge of the troubadours at a greater disadvantage than through the prose translations of Millot. Their poetry was entirely of that class which is allied to music, and excites the fancy or feelings rather by the power of sound than any stimulancy of imagery and passion. Possessing a flexible and harmonious language, they invented a variety of metrical arrangements,

* *Histoire Littéraire des Troubadours*, Paris, 1774.

perfectly new to the nations of Europe. The Latin hymns were striking, but monotonous, the metre of the northern French unvaried; but in Provençal poetry, almost every length of verse, from two syllables to twelve, and the most intricate disposition of rhymes were at the choice of the troubadour. The canzoni, the sestina, all the lyric metres of Italy and Spain, were borrowed from his treasury. With such a command of poetical sounds, it was natural that he should inspire delight into ears not yet rendered familiar to the artifices of verse; and even now the fragments of these ancient lays, quoted by M. Sismondi and M. Ginguené, seem to possess a sort of charm that has evaporated in translation. Upon this harmony and upon the facility with which mankind are apt to be deluded into an admiration of exaggerated sentiment in poetry, they depended for their influence. And, however vapid the songs of Provence may seem to our apprehensions, they were undoubtedly the source from which poetry for many centuries derived a great portion of its habitual language.*

* Two very modern French writers, M. Ginguené, (*Histoire Littéraire d'Italie*, Paris, 1811,) and M. Sismondi, (*Littérature du Midi de l'Europe*, Paris, 1813,) have revived the poetical history of the troubadours. To them, still more than to Millot and Tiraboschi, I would acknowledge my obligations for the little I have learned in respect of this forgotten school of poetry. Notwithstanding, however, the heaviness of Millot's work, a fault not imputable to himself, though Ritson, as I remember, calls him, in his own polite style, "a blockhead," it will always be useful to the inquirer into the manners and opinions of the middle ages, from the numerous illustrations

It has been maintained by some antiquaries that the northern romance, or what we properly call French, was not formed until the tenth century, the common dialect of all France having previously resembled that of Languedoc. This hypothesis may not be indisputable; but the question is not likely to be settled, as scarcely any written specimens of romance, even of that age, have survived.* In the eleventh century, among other more obscure productions, both in prose and metre, there appears what, if unquestioned as to authenticity, would be a valuable monument of this language; the laws of William the Conqueror. These are preserved in a manuscript of Ingulfus's History of Croyland, a blank being left in other copies where they should be inserted.† They are written in an idiom so far removed from the Provençal, that one would be disposed to think the separation between these two

it contains of two general facts; the extreme dissoluteness of morals among the higher ranks, and the prevailing animosity of all classes against the clergy.

* Hist. Litt. de la France, t. vii. p. 58. Le Bœuf, according to these Benedictins, has published some poetical fragments of the tenth century; and they quote part of a charter as old as 940, in romance, p. 59. But that antiquary, in a memoir printed in the seventeenth volume of the Academy of Inscriptions, which throws more light on the infancy of the French language than any thing within my knowledge, says only, that the earliest specimens of verse in the royal library are of the eleventh century *au plus tard*, p. 717. M. de la Rue is said to have found some poems of the eleventh century in the British Museum. Roquefort, *Etat. de la Poésie Française*, p. 206. Le Bœuf's fragment may be found in this work, p. 279.; it seems nearer to the Provençal than the French dialect.

† Gale, *15 Script*, t. i. p. 88.

species of Romance of older standing than is commonly allowed. But it has been thought probable that these laws, which in fact were only a repetition of those of Edward the Confessor, were originally published in Anglo-Saxon, the only language intelligible to the people, and translated, at a subsequent period, by some Norman monk into French.* This, indeed, is not quite satisfactory, as it would have been more natural for such a transcriber to have rendered them into Latin; and neither William, nor his successors, were accustomed to promulgate any of their ordinances in the vernacular language of England.

The use of a popular language became more common after the year 1100. Translations of some books of Scripture, and acts of saints, were made about that time, or even earlier, and there are French sermons of St. Bernard, from which extracts have been published, in the royal library at Paris.† In 1126, a charter was granted by Louis VI. to the city of Beauvais in French.‡

* Ritson's Dissertation on Romance, p. 66.

† Hist. Litt. t. ix. p. 149. Fabliaux par Barbasan, vol. i. p. 9. edit. 1808. Mém. de l'Académie des Inscr. t. xv. and xvii. p. 714, &c.

‡ Mabillon speaks of this as the oldest French instrument he had seen. But the Benedictins quote some of the eleventh century. Hist. Litt. t. vii. p. 59. This charter is supposed by the authors of Nouveau Traité de Diplomatique to be translated from the Latin, t. iv. p. 519. French charters, they say, are not common before the age of Louis IX.; and this is confirmed by those published in Martenne's Thesaurus Anecdotorum, which are very commonly in French from his reign, but hardly ever before.

Metrical compositions are in general the first literature of a nation, and, even if no distinct proof could be adduced, we might assume their existence before the twelfth century. There is, however, evidence, not to mention the fragments printed by *Le Bœuf*, of certain lives of saints translated into French verse by *Thibault de Vernon*, a canon of *Rouen*, before the middle of the preceding age. And we are told that *Taillefer*, a Norman minstrel, recited a song or romance on the deeds of *Roland*, before the army of his countrymen, at the battle of *Hastings*, in 1066. *Philip de Than*, a Norman subject of *Henry I.*, seems to be the earliest poet, whose works as well as name have reached us, unless we admit a French translation of the work of one *Marbode* upon precious stones to be more ancient.* *This de Than* wrote a set of rules for computation of time, and an account of different calendars. A happy theme for inspiration without doubt! Another performance of the same author is a treatise on birds and beasts, dedicated to *Adelaide*, queen of *Henry I.*† But a more famous votary of the *Muse* was *Wace*, a native of *Jersey*, who, about the beginning of *Henry*

* *Ravalière*, *Révol. de la Langue Française*, p. 116., doubts the age of this translation.

† *Archæologia*, vols. xii. and xiii. These memoirs by *M. de la Rue*, former professor of history at *Caen*, are among the very best that our Society of Antiquaries has published. I think our last volumes improve a little; and but a little. The Academy of Incriptions must still inspire us with shame, if it does not with emulation.

II.'s reign, turned Geoffrey of Monmouth's history into French metre. Besides this poem, called *le Brut d'Angleterre*, he composed a series of metrical histories, containing the transactions of the dukes of Normandy, from Rollo, their great progenitor, who gave name to the *Roman de Rou*, down to his own age. Other productions are ascribed to Wace, who was at least a prolific versifier, and if he seem to deserve no higher title at present, has a claim to indulgence, and even to esteem, as having far excelled his contemporaries, without any superior advantages of knowledge. In emulation, however, of his fame, several Norman writers addicted themselves to composing chronicles, or devotional treatises in metre. The court of our Norman kings was to the early poets in the *Langue d'Oil*, what those of Arles and Toulouse were to the troubadours. Henry I. was fond enough of literature to obtain the surname of *Beauclerc*; Henry II. was more indisputably an encourager of poetry; and Richard I. has left compositions of his own in one or other, (for the point is doubtful,) of the two dialects spoken in France.*

If the poets of Normandy had never gone beyond historical and religious subjects, they would

* Millot says that Richard's *sirventes*, (satirical songs,) have appeared in French, as well as Provençal, but that the former is probably a translation. *Hist. des Troubadours*, vol. i. p. 54. Yet I have met with no writer who quotes them in the latter language; and M. Ginguené, as well as Le Grand d'Aussy, consider Richard as a *trouveur*.

probably have had less claim to our attention than their brethren of Provence. But a different and far more interesting species of composition began to be cultivated in the latter part of the twelfth century. Without entering upon the controverted question as to the origin of romantic fictions, referred by one party to the Scandinavians, by a second to the Arabs, by others to the natives of Brittany, it is manifest that the actual stories upon which one early and numerous class of romances was founded are related to the traditions of the last people. These are such as turn upon the fable of Arthur; for though we are not entitled to deny the existence of such a personage, his story seems chiefly the creation of Celtic vanity. Traditions, current in Britany, though probably derived from this island, became the basis of Geoffrey of Monmouth's Latin prose, which, as has been seen, was transfused into French metre by Wace.* The vicinity of Normandy enabled its poets to enrich their narratives with other Armorican fictions, all relating to the heroes who had surrounded the table of the son of Uther. An equally imaginary history of Charlemagne gave rise to a new family of romances. The authors of these fictions were called *Trouveurs*, a name obviously identical with

* This derivation of the romantic stories of Arthur, which *le Grand d'Aussy* ridiculously attributes to the jealousy entertained by the English of the renown of Charlemagne, is stated in a very perspicuous and satisfactory manner by *Mr. Ellis* in his specimens of *Early English Metrical Romances*.

that of Troubadours. But, except in name, there was no resemblance between the minstrels of the northern and southern dialects. The invention of one class was turned to description, that of the other to sentiment; the first were epic in their form and style, the latter almost always lyric. We cannot perhaps give a better notion of their dissimilitude, than by saying that one school produced Chaucer, and the other Petrarch. Besides these romances of chivalry, the *trouveurs* displayed their powers of lively narration in comic tales or *fabliaux*, (a name sometimes extended to the higher romance,) which have aided the imagination of Boccace and la Fontaine. These compositions are certainly more entertaining than those of the troubadours; but, contrary to what I have said of the latter, they often gain by appearing in a modern dress. Their versification, which doubtless had its charm, when listened to around the hearth of an ancient castle, is very languid and prosaic, and suitable enough to the tedious prolixity into which the narrative is apt to fall; and though we find many sallies of that arch and sprightly simplicity which characterizes the old language of France as well as England, it requires, upon the whole, a factitious taste to relish these Norman tales, as poetry distinguished from metrical fiction.

A manner different enough from that of the *fabliaux* was adopted in the *Roman de la Rose*, begun by William de Loris about 1250, and com-

pleted by John de Meun half a century later. This poem, which contains about 16,000 lines in the usual octo-syllable verse, from which the early French writers seldom deviated, is an allegorical vision, wherein love, and the other passions or qualities connected with it, pass over the stage, without the intervention, I believe, of any less abstract personages. Though similar allegories were not unknown to the ancients, and, which is more to the purpose, may be found in other productions of the thirteenth century, none had been constructed so elaborately as that of the *Roman de la Rose*. Cold and tedious as we now consider this species of poetry, it originated in the creative power of imagination, and appealed to more refined feelings than the common metrical narratives could excite. This poem was highly popular in the middle ages, and became the source of those numerous allegories which had not ceased in the seventeenth century.

The French language was employed in prose, as well as in metre. Indeed it seems to have had almost an exclusive privilege in this respect. The language of *Oïl*, says Dante, in his treatise on vulgar speech, prefers its claim to be ranked above those of *Oc* and *Si*, (*Provençal* and *Italian*,) on the ground, that all translations, or compositions in prose have been written therein, from its greater facility and grace; such as the books compiled from the *Trojan* and *Roman* stories, the delightful fables about *Arthur*, and many other works of his-

tory and science.* I have mentioned already the sermons of St. Bernard, and translations from Scripture. The laws of the kingdom of Jerusalem purport to have been drawn up immediately after the first crusade; and though their language has been materially altered, there seems no doubt that they were originally compiled in French.† Besides some charters, there are said to have been prose romances before the year 1200.‡ Early in the next age, Ville Hardouin, seneschal of Champagne, recorded the capture of Constantinople in the fourth crusade, an expedition, the glory and reward of which he had personally shared; and, as every original work of prior date has either perished, or is of small importance, may be deemed the father

* Prose e Rime di Dante, Venez, 1758, t. iv. p. 261. Dante's words, *biblia cum Trojanorum Romanorumque gestibus compilata*, seem to bear no other meaning than what I have given. But there may be a doubt whether *biblia* is ever used except for the Scriptures; and the Italian translator renders it; cioè *la bibbia, i fatti de i Trojani, e de i Romani*. In this case something is wrong in the original Latin, and Dante will have alluded to the translations of parts of Scripture made into French, as mentioned in the text.

† The Assises de Jerusalem have undergone two revisions; one, in 1250, by order of John d'Ibelin, count of Jaffa, and a second in 1369, by sixteen commissioners chosen by the states of the kingdom of Cyprus. Their language seems to be such as might be expected from the time of the former revision.

‡ Several prose romances were written or translated from the Latin about 1170, and afterwards. Mr. Ellis seems inclined to dispute their antiquity. But, besides the authorities of La Ravalière and Tressan, the latter of which is not worth much, a late very extensively informed writer seems to have put this matter out of doubt. Roquefort Flamericourt, *Etat de la Poésie Française dans les 12^{me} and 13^{me} siècles*. Paris, 1815. p. 147.

of French prose. The establishments of St. Louis, and the law treatise of Beaumanoir, fill up the interval of the thirteenth century, and before its conclusion we must suppose the excellent memoirs of Joinville to have been composed, since they are dedicated to Louis X. in 1315, when the author could hardly be less than ninety years of age. Without prosecuting any farther the history of French literature, I will only mention the translations of Livy and Sallust, made in the reign and by the order of John, with those of Cæsar, Suetonius, Ovid, and parts of Cicero, which are due to his successor Charles V.*

I confess myself wholly uninformed as to the original formation of the Spanish language, and as to the epoch of its separation into the two principal dialects of Castile and Portugal or Gallicia;† nor

* Villaret, *Hist. de France*, t. xi. p. 121. De Sade, *Vie de Pétrarque*, t. iii, p. 548. Charles V. had more learning than most princes of his time. Christine de Pisan, a lady who has written memoirs, or rather an eulogy of him, says that his father le fist introduire en lettres moult suffisamment, et tant que competemment entendoit son Latin, et souffisamment sca-voit les regles de grammaire: la quelle chose pleust a dieu qu' ainsi fust accoutumée entre les princes. *Collect. des Mém.* t. v. p. 103. 190, &c.

† The earliest Spanish that I remember to have seen is an instrument in Martenne, *Thesaurus Anecdotorum*, t. i. p. 263.; the date of which is 1095. Persons more conversant with the antiquities of that country may possibly go farther back. Another of 1101 is published in Marina's *Teoria de las Cortes*, t. iii. p. 1. It is in a *Vidimus* by Peter the Cruel; and cannot, I presume, have been a translation from the Latin. Yet the editors of *Nouveau Tr. de Diplom.* mention a charter of 1243, as the earliest they are acquainted with in the Spanish language. t. iv. p. 525.

should I perhaps have alluded to the literature of that peninsula, were it not for a remarkable poem which shines out among the minor lights of those times. This is a metrical life of the Cid Ruy Diaz, written in a barbarous style and with the rudest inequality of measure, but with a truly Homeric warmth and vivacity of delineation. It is much to be regretted, that the author's name has perished, but its date seems to be not later than the middle of the twelfth century, while the hero's actions were yet recent, and before the taste of Spain had been corrupted by the Provençal troubadours, whose extremely different manner would, if it did not pervert the poet's genius, at least have impeded his popularity. A very competent judge has pronounced the poem of the Cid to be "decidedly and beyond comparison the finest in the Spanish language." It is at least superior to any that was written in Europe before the appearance of Dante.*

Charters in the German language, according to the same work, first appear in the time of the emperor Rodolph, after 1272, and became usual in the next century, p. 523. But Struvius mentions an instrument of 1235, as the earliest in German. Corp. Hist. Germ. p. 457.

* An extract from this poem was published in 1808, by Mr. Southey, at the end of his "Chronicle of the Cid," the materials of which it partly supplied, accompanied by an excellent version by a gentleman, who is distinguished, among many other talents, for an unrivalled felicity in expressing the peculiar manner of authors whom he translates or imitates. M. Sismondi has given other passages, in the third volume of his essay on Southern Literature. This popular and elegant work contains some interesting and not very common information as to the early Spanish poets in the Provençal dialect, as well as those who wrote in Castilian.

A strange obscurity envelops the infancy of the Italian language. Though it is certain that grammatical Latin had ceased to be employed in ordinary discourse, at least from the time of Charlemagne, we have not a single passage of undisputed authenticity, in the current idiom, for nearly four centuries afterwards. Though Italian phrases are mixed up in the barbarous jargon of some charters, not an instrument is extant in that language before the year 1200; unless we may reckon one in the Sardinian dialect, (which I believe was rather Provençal than Italian,) noticed by Muratori.* Nor is there a vestige of Italian poetry older than a few fragments of Ciullo d'Alcamo, a Sicilian, who must have written before 1193, since he mentions Saladin as then living.† This may strike us as the more remarkable, when we consider the political circumstances of Italy in the eleventh and twelfth centuries. From the struggles of her spirited republics against the emperors, and their internal factions, we might, upon all general reasoning, anticipate the early use and vigorous cultivation of their native language. Even if it were not yet ripe for historians and philosophers, it is strange that no poet should have been inspired with songs of triumph or invective by the various fortunes of his country. But on the contrary the poets of Lombardy became troubadours, and wasted their genius in

* Dissert. 32.

† Tiraboschi, t. iv. p. 340.

Provençal love-strains at the courts of princes. The Milanese and other Lombard dialects were indeed exceedingly rude; but this rudeness separated them more decidedly from Latin, nor is it possible that the Lombards could have employed that language intelligibly for any public or domestic purpose. And indeed in the earliest Italian compositions that have been published, the new language is so thoroughly formed, that it is easy to infer a very long disuse of that from which it was derived. The Sicilians claim the glory of having first adapted their own harmonious dialect to poetry. Frederic II. both encouraged their art and cultivated it; among the very first essays of Italian verse we find his productions, and those of his chancellor Piero delle Vigne. Thus Italy was destined to owe the beginnings of her national literature to a foreigner and an enemy. These poems are very short and few; those ascribed to St. Francis about the same time are hardly distinguishable from prose; but after the middle of the thirteenth century, the Tuscan poets awoke to a sense of the beauties which their native language, refined from the impurities of vulgar speech,* could display;

* Dante, in his treatise *De vulgari Eloquentiâ*, reckons fourteen or fifteen dialects, spoken in different parts of Italy, all of which were debased by impure modes of expression. But the noble, principal, and courtly Italian idiom was that, which belonged to every city, and seemed to belong to none, and which, if Italy had a court, would be the language of that court. p. 274. 277.

Allowing for the metaphysical obscurity in which Dante chuses to envelop the subject, this might perhaps be said at

and the genius of Italian literature was rocked upon the restless waves of the Florentine democracy. Ricordano Malespini, the first historian, and nearly the first prose writer in Italian, left memorials of that republic down to the year 1281, which was that of his death, and it was continued by Giacchetto Malespini to 1286. These are little inferior in purity of style to the best Tuscan authors; for it is the singular fate of that language to have spared itself all intermediate stages of refinement, and starting the last in the race, to have arrived almost instantaneously at the goal. There is an interval of not much more than half a century between the short fragment of Ciullo d'Alcamo mentioned above, and the poems of Guido Guinizzelli, Guitone d'Arezzo, and Guido Cavalcante; which, in their diction and turn of thought, are sometimes not unworthy of Petrarch.*

present. The Florentine dialect has its peculiarities, which distinguish it from the general Italian language, though these are seldom discerned by foreigners, nor always by natives, with whom Tuscan is the proper denomination of their national tongue.

* Tiraboschi, t. iv. p. 309—377. Ginguené, vol. i. c. 6. The style of the Vita Nuova of Dante, written soon after the death of his Beatrice, which happened in 1290, is hardly distinguishable, by a foreigner, from that of Machiavel or Castiglione. Yet so recent was the adoption of this language, that the celebrated master of Dante, Brunetto Latini, had written his *Tesoro* in French; and gives as a reason for it, that it was a more agreeable and usual language than his own. Et se aucuns demandoit pourquoi chis livre est ecris en romans, selon la raison de France, pour chose que nous sommes ytalien, je diroie que ch'est pour chose que nous sommes en France; l'autre pour chose que *la parleure en est plus delitable et plus commune a toutes gens*. There is said to be a manuscript history of Venice

But at the beginning of the next age arose a much greater genius, the true father of Italian poetry, and the first name in the literature of the middle ages. This was Dante, or Durante Alighieri, born in 1265, of a respectable family at Florence. Attached to the Guelf party, which had then obtained a final ascendancy over its rival, he might justly promise himself the natural reward of talents under a free government, public trust and the esteem of his compatriots. But the Guelfs unhappily were split into two factions, the Bianchi and the Neri, with the former of whom, and, as it proved, the unsuccessful side, Dante was connected. In 1300, he filled the office of one of the Priori, or chief magistrates at Florence; and having manifested in this, as was alleged, some partiality towards the Bianchi, a sentence of proscription passed against him, about two years afterwards, when it became the turn of the opposite faction to triumph. Banished from his country, and baffled in several efforts of his friends to restore their fortunes, he had no resource but at the courts of the Scalas at Verona, and other Italian princes, attaching himself in adversity to the Imperial interests, and, tasting, in his own language, the bitterness of another's bread.* In this state of exile he

down to 1275, in the Florentine library, written in French, by Martin de Canale, who says that he has chosen that language, parceque la langue françoise cort parmi le monde, et est la plus delitable a lire et a oir que nulle autre. *Ginguené*, vol. i. p. 384.

* Tu proverai sì, (says Cacciaguida to him,) come sà di sale
 Il pane altrui, e come è duro calle
 Il scendere e 'l salir per altrui scale.—*Paradis. cant. 16.*

finished, if he did not commence, his great poem, the Divine Comedy; a representation of the three kingdoms of futurity, Hell, Purgatory, and Paradise, divided into one hundred cantos, and containing about 14,000 lines. He died at Ravenna in 1321.

Dante is among the very few, who have created the national poetry of their country. For notwithstanding the polished elegance of some earlier Italian verse, it had been confined to amorous sentiment; and it was yet to be seen, that the language could sustain, for a greater length than any existing poem except the Iliad, the varied style of narration, reasoning and ornament. Of all writers, he is the most unquestionably original. Virgil was indeed his inspiring genius, as he declares himself, and as may sometimes be perceived in his diction; but his tone is so peculiar and characteristic, that few readers would be willing at first to acknowledge any resemblance. He possessed, in an extraordinary degree, a command of language, the abuse of which led to his obscurity and licentious innovations. No poet ever excelled him in conciseness, and in the rare talent of finishing his pictures by a few bold touches; the merit of Pindar in his better hours. How prolix would the stories of Francesca or of Ugolino have become in the hands of Ariosto, or of Tasso, or of Ovid, or of Spenser! This excellence indeed is most striking in the first part of his poem. Having formed his plan so as to give an

equal length to the three regions of his spiritual world, he found himself unable to vary the images of hope or beatitude, and the Paradise is a continual accumulation of descriptions, separately beautiful, but uniform and tedious. Though images derived from light and music are the most pleasing, and can be borne longer in poetry than any others, their sweetness palls upon the sense by frequent repetition, and we require the intermixture of sharper flavours. Yet there are detached passages of great excellence in this third part of Dante's poem; and even in the long theological discussions which occupy the greater proportion of its thirty-three cantos, it is impossible not to admire the enunciation of abstract positions with remarkable energy, conciseness, and sometimes perspicuity. The twelve first cantos of the Purgatory are an almost continual flow of soft and brilliant poetry. The seven last are also very splendid, but there is some heaviness in the intermediate parts. Fame has justly given the preference to the *Inferno*, which displays throughout a more vigorous and masterly conception; but the mind of Dante cannot be thoroughly appreciated without a perusal of his entire poem.

The most forced and unnatural turns, the most barbarous licenses of idiom, are found in this poet, whose power of expression is, at other times, so peculiarly happy. His style is indeed generally free from those conceits of thought, which discre-

dited the other poets of his country; but no sense is too remote for a word, which he finds convenient for his measure or his rhyme. It seems indeed as if he never altered a line on account of the necessity of rhyme, but forced another, or perhaps a third into company with it. For many of his faults no sufficient excuse can be made. But it is candid to remember, that Dante, writing almost in the infancy of a language, which he contributed to create, was not to anticipate that words, which he borrowed from the Latin, and from the provincial dialects, would by accident, or through the timidity of later writers, lose their place in the classical idiom of Italy. If Petrarch, Bembo, and a few more, had not aimed rather at purity than copiousness, the phrases which now appear barbarous, and are at least obsolete, might have been fixed by use in poetical language.

The great characteristic excellence of Dante is elevation of sentiment, to which his compressed diction and the emphatic cadences of his measure admirably correspond. We read him, not as an amusing poet, but as a master of moral wisdom, with reverence and awe. Fresh from the deep and serious, though somewhat barren studies of philosophy, and schooled in the severer discipline of experience, he has made of his poem a mirror of his mind and life, the register of his solitudes and sorrows, and of the speculations in which he sought to escape their recollection. The banished magis-

trate of Florence, the disciple of Brunetto Latini, the statesman, accustomed to trace the varying fluctuations of Italian faction, is for ever before our eyes. For this reason, even the prodigal display of erudition, which in an epic poem would be entirely misplaced, increases the respect we feel for the poet, though it does not tend to the reader's gratification. Except Milton, he is much the most learned of all the great poets, and, relatively to his age, far more learned than Milton. In one so highly endowed by nature, and so consummate by instruction, we may well sympathize with a resentment which exile and poverty rendered perpetually fresh. The heart of Dante was naturally sensible, and even tender; his poetry is full of simple comparisons from rural life; and the sincerity of his early passion for Beatrice pierces through the veil of allegory which surrounds her. But the memory of his injuries pursues him into the immensity of eternal light; and, in the company of saints and angels, his unforgiving spirit darkens at the name of Florence.*

This great poem was received in Italy with that enthusiastic admiration which attaches itself to works of genius only in ages too rude to listen to the envy of competitors, or the fastidiousness of critics. Almost every library in that country contains manuscript copies of the *Divine Comedy*, and an account

* Paradiso, cant. 16.

of those who have abridged or commented upon it would swell to a volume. It was thrice printed in the year 1472, and at least nine times within the fifteenth century. The city of Florence in 1373, with a magnanimity which almost redeems her original injustice, appointed a public professor to read lectures upon Dante; and it was hardly less honourable to the poet's memory, that the first person selected for this office was Boccaccio. The universities of Pisa and Piacenza imitated this example; but it is probable that Dante's abstruse philosophy was often more regarded in their chairs, than his higher excellencies.* Italy indeed, and all Europe, had reason to be proud of such a master. Since Claudian, there had been seen for nine hundred years no considerable body of poetry, except the Spanish poem of the Cid, of which no one had heard beyond the peninsula, that could be said to pass mediocrity; and we must go much farther back than Claudian, to find any one capable of being compared with Dante. His appearance was an epoch in the intellectual history of modern nations, and undeceived them of the discouraging suspicion which long ages of lethargy tended to excite, that nature had exhausted her fertility in the great poets of Greece and Rome. It was as if, at some of the ancient games, a stranger had appeared upon the plain, and thrown his quoit among the marks of

* Velli, Vita di Dante. Tiraboschi.

former casts, which tradition had ascribed to the demigods. But the admiration of Dante, though it gave a general impulse to the human mind, did not produce imitators. I am unaware at least of any writer, in whatever language, who can be said to have followed the steps of Dante; I mean not so much in his subject, as in the character of his genius and style. His orbit is still all his own, and the track of his wheels can never be confounded with that of a rival.*

In the same year that Dante was expelled from Florence, a notary, by name Petracco, was involved in a similar banishment. Retired to Arezzo, he there became the father of Francis Petrarch. This great man shared of course, during his early years, in the adverse fortune of his family, which he was invincibly reluctant to restore, according to his father's wish, by the profession of jurisprudence. The strong bias of nature determined him to polite letters and poetry. These are seldom the fountains of wealth; yet they would perhaps have been such to Petrarch, if his temper could have borne the sacrifice of liberty for any worldly acquisitions. At

* The source from which Dante derived the scheme and general idea of his poem has been a subject of inquiry in Italy. To his original mind one might have thought the sixth *Æneid* would have sufficed. But it happens in fact that he took his plan, with more direct imitation than we should expect, from the *Tesoretto* of his master in philosophical studies, Brunetto Latini. This is proved by M. Ginguene, t. ii. p. 8.

the city of Avignon, where his parents had latterly resided, his graceful appearance and the reputation of his talents attracted one of the Colonna family, then bishop of Lombes, in Gascony. In him, and in other members of that great house, never so illustrious as in the fourteenth century, he experienced the union of patronage and friendship. This, however, was not confined to the Colonnas. Unlike Dante, no poet was ever so liberally and sincerely encouraged by the great; nor did any, perhaps, ever carry to that perilous intercourse a spirit more irritably independent, or more free from interested adulation. He praised his friends lavishly, because he loved them ardently; but his temper was easily susceptible of offence, and there must have been much to tolerate in that restlessness and jealousy of reputation, which is perhaps the inevitable failing of a poet.* But every thing was forgiven to a man,

* There is an unpleasing proof of this quality in a letter to Boccaccio on Dante, whose merit he rather disingenuously extenuates; and whose popularity evidently stung him to the quick. De Sade, t. iii. p. 512. Yet we judge so ill of ourselves, that Petrarch chose envy as the vice from which of all others he was most free. In his dialogue with St. Augustin, he says, *Quicquid libuerit, dicito; modò me non accuses invidiæ. Aug. Utinam non tibi magis superbia quam invidia nocuisset; nam hoc crimine, me iudice, liber es. De Contemptu Mundi. Edit. 1581, p. 342.*

I have read in some modern book, but know not where to seek the passage, that Petrarch did not intend to allude to Dante in the letter to Boccaccio mentioned above, but rather to Zanobi Strata, a contemporary Florentine poet, whom, however forgotten at present, the bad taste of a party in criticism preferred to himself. Matteo Villani mentions them together

who was the acknowledged boast of his age and country. Clement VI. conferred one or two sinecure benefices upon Petrarch, and would probably have raised him to a bishopric, if he had chosen to adopt the ecclesiastical profession. But he never took orders, the clerical tonsure being a sufficient qualification for holding canonries. The same pope even offered him the post of apostolical secretary, and this was repeated by Innocent VI. I know not whether we should ascribe to magnanimity, or to a politic motive, the behaviour of Clement VI. towards Petrarch, who had pursued a course as vexatious as possible to the Holy See. For not only he made the residence of the supreme pontiffs at Avignon, and the vices of their court, the topic of invectives, too well founded to be despised, but he had ostentatiously put himself forward as the supporter of Nicola di Rienzi in a project which could evidently have no other aim than to wrest the city of Rome from the temporal sovereignty of its bishop. Nor was the friendship and society of Petrarch less courted by the most respectable Italian princes; by Robert king of Naples, by the Visconti, the Correggi of Parma, the famous doge of Venice, Andrew Dandolo, and the Carrara family of Padua, under whose protection he spent the lat-

as the two great ornaments of his age. This conjecture seems probable, for some expressions are not in the least applicable to Dante. But whichever was intended, the letter equally shows the irritable humour of Petrarch.

ter years of his life. Stories are related of the respect shown to him by men in humbler stations, which are perhaps still more satisfactory.* But the most conspicuous testimony of public esteem was bestowed by the city of Rome, in his solemn coronation, as laureat poet, in the Capitol. This ceremony took place in 1341; and it is remarkable, that Petrarch had at that time composed no works, which could, in our estimation, give him pretensions to so singular an honour.

The moral character of Petrarch was formed of dispositions, peculiarly calculated for a poet. An enthusiast in the emotions of love, of friendship, of glory, of patriotism, of religion, he gave the rein to all their impulses; and there is not perhaps a page in his Italian writings which does not bear the trace of one or other of these affections. By far the most predominant, and that which has given the greatest celebrity to his name, is his passion for Laura. Twenty years of unrequited and almost un aspiring love were lightened by song; and the

* A goldsmith of Bergamo, by name Henry Capra, smitten with an enthusiastic love of letters, and of Petrarch, earnestly requested the honour of a visit from the poet. The house of this good tradesman was full of representations of his person, and of inscriptions with his name and arms. No expense had been spared in copying all his works as they appeared. He was received by Capra with a princely magnificence; lodged in a chamber hung with purple, and a splendid bed, in which no one before or after him was permitted to sleep. Goldsmiths, as we may judge by this instance, were opulent persons; yet the friends of Petrarch dissuaded him from this visit, as derogatory to his own elevated station. *De Sade*, t. iii. p. 496.

attachment, which, having long survived the beauty of its object,* seems to have at one time nearly passed from the heart to the fancy, was changed to an intenser feeling, and to a sort of celestial adoration, by her death. Laura, before the time of Petrarch's first accidental meeting with her, was united in marriage with another; a fact, which, besides some more particular evidence, appears to me deducible from the whole tenor of his poetry.†

* See the beautiful sonnet, *Erano i capei d'oro all' auro sparsi*. In a famous passage of his Confessions, he says; *Corpus illud egregium morbis et crebris partibus exhaustum, multum pristini vigoris amisit*. Those who maintain the virginity of Laura are forced to read *perturbationibus*, instead of *partibus*. Two manuscripts in the royal library at Paris have the contraction *ptbus*, which leaves the matter open to controversy. De Sade contends, that "crebris" is less applicable to "perturbationibus" than to "partibus." I do not know that there is much in this; but I am clear that *corpus exhaustum partibus* is much the more elegant Latin expression of the two.

† The Abbé de Sade, in those copious memoirs of the life of Petrarch, which illustrate in an agreeable though rather prolix manner the civil and literary history of Provence and Italy in the fourteenth century, endeavoured to establish his own descent from Laura, as the wife of Hugues de Sade, and born in the family de Noves. This hypothesis has since been received with general acquiescence by literary men; and Tiraboschi in particular, whose talent lay in these petty biographical researches, and who had a prejudice against every thing that came from France, seems to consider it as decisively proved. But it has been called in question in a modern publication by the late lord Woodhouselee. (*Essay on the Life and Character of Petrarch*, 1810.) I shall not offer any opinion as to the identity of Petrarch's mistress with Laura de Sade; but the main position of Lord W.'s essay, that Laura was an unmarried woman, and the object of an honourable attachment in her lover, seems irreconcilable with the evidence that his writings supply. 1. There is no passage in Petrarch, whether of poetry or prose, that alludes

Such a passion is undoubtedly not capable of a moral defence; nor would I seek its palliation so much in the prevalent manners of his age, by which

to the virgin character of Laura, or gives her the usual appellations of unmarried women; puella in Latin, or donzella in Italian; even in the *Trionfo della Castità*, where so obvious an opportunity occurred. Yet this was naturally to be expected from so ethereal an imagination as that of Petrarch, always inclined to invest her with the halo of celestial purity. We know how Milton took hold of the mystical notions of virginity; notions more congenial to the religion of Petrarch than his own:

Quod tibi perpetuus pudor, et sine labe juventas
Pura fuit, quod nulla tori libata voluptas,
En etiam tibi virginei servantur honores.

Epitaphium Damonis.

2. The coldness of Laura towards so passionate and deserving a lover, if no insurmountable obstacle intervened during his twenty years of devotion, would be at least a mark that his attachment was misplaced, and show him in rather a ridiculous light. It is not surprizing, that persons believing Laura to be unmarried, as seems to have been the case with the Italian commentators, should have thought his passion affected and little more than poetical. But upon the contrary supposition, a thread runs through the whole of his poetry, and gives it consistency. A love on the one side, instantaneously conceived, and retained by the susceptibility of a tender heart and ardent fancy; nourished by slight encouragement, and seldom presuming to hope for more; a mixture of prudence and coquetry on the other, kept within bounds either by virtue or by the want of mutual attachment, yet not dissatisfied with fame more brilliant and flattery more refined than had ever before been the lot of woman—these are surely pretty natural circumstances, and such as do not render the story less intelligible. Unquestionably, such a passion is not innocent. But Lord Woodhouselee, who is so much scandalized at it, knew little, one would think, of the fourteenth century. His standard is taken not from Avignon, but from Edinburgh, a much better place, no doubt, and where the moral barometer stands at a very different altitude. In one passage, p. 188, he carries his strictness to an excess of prudery. From all we know of the age of Petrarch, the only matter of astonishment is the persevering virtue of Laura. The troubadours boast of much better success with Provençal ladies. 3. But the following

however the conduct even of good men is generally not a little influenced, as in the infirmity of Petrarch's character, which induced him both to obey and to justify the emotions of his heart. The lady too, whose virtue and prudence we are not to question, seems to have tempered the light and shadow of her countenance so as to preserve her admirer

passage from Petrarch's dialogues with St. Augustin, the work, as is well known, where he most unbosoms himself, will leave no doubt, I think, that his passion could not have been gratified consistently with honour. *At mulier ista celebris, quam tibi certissimam ducem fingis, ad superos cur non hæsitantem trepidumque direxerit, et quod cæcis fieri solet, manu apprehensum non tenuit, quò et gradiendum foret admonuit?* *PETR.* Fecit hoc illa quantum potuit. Quid enim aliud egit, cum nullis mota precibus, nullis victa blanditiis, muliebrem tenuit decorem, et adversus suam semel et meam ætatem, adversus multa et varia quæ flectere adamantium spiritum debuissent, inexpugnabilis et firma permansit? Profectò animus iste fœmineus quid virum decuit admonebat, præstabatque ne in sectando pudicitia studio, ut verbis utar Senecæ, aut exemplum aut convitium deesset; postremò cum lorifragum ac præcipitem videret, deserere maluit potius quàm sequi. *AUGUST.* Turpe igitur aliquid interdum voluisti, quod supra negaveras. At iste vulgatus amantium, vel, ut dicam verius, amentium furor est, ut omnibus meritò dici possit: volo nolo, nolo volo. Vobis ipsis quid velitis, aut nolitis, ignotum est. *PET.* Invitus in laqueum offendi. Si quid tamen olim aliter forte voluissem, amor ætasque coëgerunt; nunc quid velim et cupiam scio, firmavique jam tandem animum labentem; contra autem illa propositi tenax et semper una permansit, quare constantiam fœmineam, quò magis intelligo, magis admiror: idque sibi consilium fuisse, si unquam debui, gaudeo nunc et gratias ago. *AUG.* Semel fallenti, non facile rursus fides habenda est: tu prius mores atque habitum, vitamque mutavisti quàm aminum mutâsse persuadeas; mitigatur forte si tuus leniturque ignis, extinctus non est. Tu vero qui tantum dilectioni tribuis, non animadvertis, illam absolvendo, quantum te ipse condemnas; illam fateri libet fuisse sanctissimam, dum te insanum scelestumque fatcare.—*De Contemptu Mundi, Dialog. 3. p. 357. edit. 1581.*

from despair, and consequently to prolong his sufferings and servitude.

The general excellencies of Petrarch are his command over the music of his native language, his correctness of style, scarcely two or three words that he has used having been rejected by later writers, his exquisite elegance of diction, improved by the perpetual study of Virgil; but, far above all, that tone of pure and melancholy sentiment, which has something in it unearthly, and forms a striking contrast to the amatory poems of antiquity. Most of these are either licentious or uninteresting; and those of Catullus, a man endowed by nature with deep and serious sensibility, and a poet, in my opinion, of greater and more varied genius than Petrarch, are contaminated, above all the rest, with the most degrading grossness. Of this there is not a single instance in the poet of Vaucluse; and his strains, diffused and admired as they have been, may have conferred a benefit that criticism cannot estimate, in giving elevation and refinement to the imaginations of youth. The great defect of Petrarch was his want of strong original conception, which prevented him from throwing off the affected and over-strained manner of the Provençal troubadours, and of the earlier Italian poets. Among his poems, the Triumphs are perhaps superior to the Odes, as the latter are to the Sonnets; and of the latter, those written subsequently to the death of Laura are in general the best. But that constrained and laborious

measure cannot equal the graceful flow of the canzone, or the vigorous compression of the terza rima. The Triumphs have also a claim to superiority, as the only poetical composition of Petrarch that extends to any considerable length. They are in some degree, perhaps, an imitation of the dramatic Mysteries, and form at least the earliest specimen of a kind of poetry not uncommon in later times, wherein real and allegorical personages are intermingled in a masque, or scenic representation.

None of the principal modern languages was so late in its formation, or in its application to the purposes of literature, as the English. This arose, as is well known, out of the Saxon branch of the great Teutonic stock, spoken in England till after the conquest. From this mother dialect, our English differs less in respect of etymology, than of syntax, idiom and flexion. In so gradual a transition as probably took place, and one so sparingly marked by any existing evidence, we cannot well assign a definite origin to our present language. The question of identity is almost as perplexing in languages as in individuals. But, in the reign of Henry II., a version of Wace's poem of Brut, by one Layamon, a priest of Ernly upon Severn, exhibits as it were the chrysalis of the English language, in which he can as little be said to have written, as in Anglo-Saxon.* Very soon afterwards, the new

* A sufficient extract from this work of Layamon has been published by Mr. Ellis, in his specimens of early English poc-

formation was better developed; and some metrical pieces, referred by critics to the earlier part of the thirteenth century, differ but little from our legitimate grammar.* About the beginning of Edward I.'s reign, Robert, a monk of Gloucester, composed a metrical chronicle from the history of Geoffrey of Monmouth, which he continued to his own time. This work, with a similar chronicle of Robert Manning, a monk of Brunne, (Bourn,) in Lincolnshire, nearly thirty years later, stand at the head of our English poetry. The romance of Sir Tristrem, ascribed to Thomas of Erceldoune, surnamed the Rhymer, a Scottish minstrel, has recently laid claim to somewhat higher antiquity. In the fourteenth century, a great number of metrical romances were translated from the French. It requires no small portion of indulgence to speak favourably of any of these early English productions. A poetical line may no doubt occasionally be found; but in general the narration is as heavy and prolix as the versification is unmusical.† The first English writer, who can be read with approbation, is William Langland, the author of Piers Plowman's Vision, a severe satire upon the clergy. Though his

try, vol. i. p. 61. It contains, he observes, no word which we are under the necessity of ascribing to a French origin.

* Warton's Hist. of English Poetry. Ellis's Specimens.

† Warton printed copious extracts from some of these. Ritson gave several of them entire to the press. And Mr. Ellis has adopted the only plan which could render them palatable, by intermingling short passages, where the original is rather above its usual mediocrity, with his own lively analysis.

measure is more uncouth than that of his predecessors, there is real energy in his conceptions, which he caught not from chimeras of knight-errantry, but the actual manners and opinions of his time.

The very slow progress of the English language, as an instrument of literature, is chiefly to be ascribed to the effects of the Norman conquest, in degrading the native inhabitants, and transferring all power and riches to foreigners. The barons, without perhaps one exception, and a large proportion of the gentry, were of French descent, and preserved among themselves the speech of their fathers. This continued much longer than we should naturally have expected; even after the loss of Normandy had snapped the thread of French connexions, and they began to pride themselves in the name of Englishmen, and in the inheritance of traditionary English privileges. Robert of Glocester has a remarkable passage, which proves that, in his time, somewhere about 1270, the superior ranks continued to use the French language.* Ralph Higden, about the early part of Edward III.'s reign, though his expressions do not go the same length, asserts, that "gentlemen's children are taught to speak French,

* The evidences of this general employment and gradual disuse of French in conversation and writing are collected by Tyrwhitt, in a dissertation, on the ancient English language, prefixed to the fourth volume of his edition of Chaucer's Canterbury Tales; and by Ritson, in the preface to his Metrical Romances, vol. i. p. 70.

from the time they are rocked in their cradle; and uplandish (country or inferior) men will liken themselves to gentlemen, and learn with great business for to speak French, for to be the more told of." Notwithstanding, however, this predominance of French among the higher class, I do not think that some modern critics are warranted in concluding that they were, in general, ignorant of the English tongue. Men living upon their estates among their tenantry, whom they welcomed in their halls, and whose assistance they were perpetually needing in war and civil frays, would hardly have permitted such a barrier to obstruct their intercourse. For we cannot, at the utmost, presume that French was so well known to the English commonalty in the thirteenth century, as English is at present to the same class in Wales and the Scottish Highlands. It may be remarked also, that the institution of trial by jury must have rendered a knowledge of English almost indispensable to those who administered justice. There is a proclamation of Edward I. in Rymer, where he endeavours to excite his subjects against the king of France by imputing to him the intention of conquering the country, and abolishing the English language, (*linguam delere anglicanam,*) and this is frequently repeated in the proclamations of Edward III.* In his time, or perhaps a little before, the native language had become more familiar than French in com-

* t. v. p. 490.; t. vi. p. 642. et alibi.

mon use even with the court and nobility. Hence the numerous translations of metrical romances, which are chiefly referred to his reign. An important change was effected in 1362 by a statute, which enacts that all pleas in courts of justice shall be pleaded, debated, and judged in English. But Latin was, by this act, to be employed in drawing the record; for there seems to have still continued a sort of prejudice against the use of English as a written language. The earliest English instrument known to exist is said to bear the date of 1343.* And there are not more than three or four entries in our own tongue upon the rolls of parliament before the reign of Henry VI., after whose accession its use becomes very common. Sir John Mandeville, about 1350, may pass for the father of English prose, no original work being so ancient as his travels. But the translation of the Bible and other writings by Wicliffe nearly thirty years afterwards taught us the copiousness and energy of which our native dialect was capable; and it was employed in the fifteenth century by two writers of distinguished merit, Bishop Peacock and Sir John Fortescue.

But the principal ornament of our English literature was Geoffrey Chaucer, who, along with Dante and Petrarch, fills up the triumvirate of great poets in the middle ages. Chaucer was born in 1328, and

* Ritson, p. 80. There is one in Rymer of the year 1385.

his life extended to the last year of the fourteenth century. That rude and ignorant generation was not likely to feel the admiration of native genius as warmly as the compatriots of Petrarch; but he enjoyed the favour of Edward III., and still more conspicuously, of John Duke of Lancaster; his fortunes were far more prosperous than have usually been the lot of poets; and a reputation was established beyond competition in his life-time, from which no succeeding generation has withheld its sanction. I cannot, in my own taste, go completely along with the eulogies that some have bestowed upon Chaucer, who seems to me to have wanted grandeur, where he is original, both in conception and in language. But in vivacity of imagination and ease of expression, he is above all poets of the middle time, and comparable perhaps to the greatest of those who have followed. He invented, or rather introduced from France, and employed with facility the regular iambic couplet; and though it was not to be expected that he should perceive the capacities latent in that measure, his versification, to which he accommodated a very licentious and arbitrary pronunciation, is uniform and harmonious.* It is chiefly, indeed, as a comic poet, and

* See Tyrwhitt's essay on the language and versification of Chaucer, in the fourth volume of his edition of the *Canterbury Tales*. The opinion of this eminent critic has lately been controverted by Dr. Nott, who maintains the versification of Chaucer to have been wholly founded on accentual and not syllabic regularity.

a minute observer of manners and circumstances, that Chaucer excels. In serious and moral poetry he is frequently languid and diffuse; but he springs, like Antæus from the earth, when his subject changes to coarse satire, or merry narrative. Among his more elevated compositions, the Knight's Tale is abundantly sufficient to immortalize Chaucer, since it would be difficult to find any where a story better conducted, or told with more animation and strength of fancy. The second place may be given to his *Troilus and Creseide*, a beautiful and interesting poem, though enfeebled by expansion. But perhaps the most eminent, or at any rate the most characteristic testimony to his genius will be found in the Prologue to his *Canterbury Tales*; a work entirely and exclusively his own, which can seldom be said of his poetry, and the vivid delineations of which perhaps very few writers but Shakspeare could have equalled. As the first original English poet, if we except Langland, as the inventor of our most approved measure, as an improver, though with too much innovation, of our language, and as a faithful witness to the manners of his age, Chaucer would deserve our reverence, if he had not also intrinsic claims for excellencies, which do not depend upon any collateral considerations.

The last circumstance which I shall mention as having contributed to restore society from the intellectual degradation into which it had fallen during the

dark ages is the revival of classical learning. The Latin language indeed, in which all legal instruments were drawn up, and of which all ecclesiastics availed themselves in their epistolary intercourse, as well as in their more solemn proceedings, had never ceased to be familiar. Though many solecisms and barbarous words occur in the writings of what were called learned men, they possessed a fluency of expression in Latin which does not often occur at present. During the dark ages, however, properly so called, or the period from the sixth to the eleventh century, it is unusual to meet with quotations, except from the Vulgate, or from theological writers. The study of Rome's greatest authors, especially her poets, was almost forbidden. But a change took place in the course of the twelfth century. The polite literature, as well as the abstruser science of antiquity, became the object of cultivation. Several writers of that age, in different parts of Europe, are distinguished more or less for elegance, though not absolute purity, of Latin style; and for their acquaintance with those ancients, who are its principal models. Such were John of Salisbury, the acute and learned author of the *Policraticus*, William of Malmesbury, Giraldus Cambrensis, Roger Hoveden, in England; and in foreign countries, Otho of Frisingen, Sax Grammaticus, and the best perhaps of all I have named as to style, Falcandus, the historian of Sicily. In these we meet with frequent quotations from Livy, Cicero,

Pliny, and other considerable writers of antiquity. The poets were now admired, and even imitated. All metrical Latin before the latter part of the twelfth-century, so far as I have seen, is extremely bad; but at this time, and early in the succeeding age, there appeared several versifiers, who aspired to the renown of following the steps of Virgil and Statius in epic poetry. Joseph Iscanus, an Englishman, seems to have been the earliest of these; his poem on the Trojan war containing an address to Henry II. He wrote another, entitled *Antiocheis*, on the third crusade, most of which has perished. The wars of Frederic Barbarossa were celebrated by Gunther in his *Ligurinus*; and not long afterwards, Guillelmus Brito wrote the *Philippis*, in honour of Philip Augustus, and Walter de Chatillon the *Alexandreis*, taken from the popular romances of Alexander. None of these poems, I believe, have much intrinsic merit; but their existence is a proof of taste that could relish, though not of genius, that could emulate antiquity.*

* Warton's *Hist. of English Poetry*, vol. i. Dissertation II. Roquefort, *Etat de la Poésie Française du douzième Siècle*, p. 18. The following lines from the beginning of the eighth book of the *Philippis* seem a fair, or rather a favourable specimen of these epics. But I am very superficially acquainted with any of them.

Solverat interea zephyris melioribus annum
 Frigore depulso veris tepor, et renovari
 Cœperat et viridi gremio juvenescere tellus;
 Cum Rea læta Jovis rideret ad oscula mater,
 Cum jam post tergum Phryxi vectore relicto
 Solis Agenorei premeret rota terga juvenci.

In the thirteenth century there seems to have been some decline of classical literature, in consequence probably of the scholastic philosophy, which was then in its greatest vigour; at least we do not find so many good writers as in the preceeding age. But about the middle of the fourteenth, or perhaps a little sooner, an ardent zeal for the restoration of ancient learning began to display itself. The copying of books, for some ages slowly and sparingly performed in monasteries, had already become a branch of trade;* and their price was consequently reduced. Tiraboschi denies that the invention of making paper from linen rags is older than the middle of that

The tragedy of *Ecerinus*, (*Eccelin da Romano*.) by *Albertinus Mussatus*, a Paduan, and author of a respectable history, deserves some attention, as the first attempt to revive the regular tragedy. It was written soon after 1300. The language by no means wants animation, notwithstanding an unskillful conduct of the fable. The *Eccerinus* is printed in the tenth volume of *Muratori's* collection.

* Booksellers appear in the latter part of the twelfth century. *Peter of Blois* mentions a law-book which he had procured a *quodam publico mangone librorum*. *Hist. Littéraire de la France*, t. ix. p. 84. In the thirteenth century there were many copyists by occupation in the Italian universities. *Tiraboschi*, t. iv. p. 72. The number of these at Milan before the end of that age is said to have been fifty. *ibid.* But a very small proportion of their labour could have been devoted to purposes merely literary. By a variety of ordinances, the first of which bears date in 1275, the booksellers of Paris were subjected to the control of the university. *Crevier*, t. ii. p. 67. 286. The pretext of this was, lest erroneous copies should obtain circulation. And this appears to have been the original of those restraints upon the freedom of publication, which, since the invention of printing, have so much retarded the diffusion of truth by means of that great instrument.

century; and although doubts may justly be entertained as to the accuracy of this position, yet the confidence with which so eminent a scholar advances it is at least a proof that paper manuscripts of an earlier date are very rare.* Princes became far more attentive to literature when it was no longer confined to metaphysical theology and canon law. I have al-

* Tiraboschi, t. v. p. 85. On the contrary side are Montfaucon, Mabillon and Muratori; the latter of whom carries up the invention of our ordinary paper to the year 1000. But Tiraboschi contends that the paper used in manuscripts of so early an age was made from cotton rags, and apparently from the inferior durability of that material, not frequently employed. The editors of *Nouveau Traité de Diplomatique* are of the same opinion, and doubt the use of linen paper before the year 1300. t. i. p. 517. 521. Meerman, well known as a writer upon the antiquities of printing, offered a reward for the earliest manuscript upon linen paper, and, in a treatise upon the subject, fixed the date of its invention between 1270 and 1300. But M. Schwandner of Vienna is said to have found in the imperial library a small charter bearing the date 1243 on such paper. Macpherson's *Annals of Commerce*, vol. i. p. 394. Tiraboschi, if he had known this, would properly have maintained the paper to be made of cotton, which he says it is difficult to distinguish. He assigns the invention of linen paper to Pace da Fabiano of Treviso. But more than one Arabian writer asserts the manufacture of linen paper to have been carried on at Samarcand early in the eighth century, having been brought thither from China. And, what is more conclusive, Casiri positively declares many manuscripts in the Escorial of the eleventh and twelfth centuries to be written on that substance. *Bibliotheca Arabico-Hispanica*, t. ii. p. 9. This authority appears much to outweigh the opinion of Tiraboschi in favour of Pace da Fabiano, who must, I think, take his place at the table of fabulous heroes with Bartholomew Schwartz and Flavio Giojá. But the material point, that paper was very little known in Europe till the latter part of the fourteenth century, remains as before.

ready mentioned the translations from classical authors made by command of John and Charles V. of France. These French translations diffused some acquaintance with ancient history and learning among our own countrymen.* The public libraries assumed a more respectable appearance. Louis IX. had formed one at Paris, in which it does not appear that any work of elegant literature was found.† At the beginning of the fourteenth century, only four classical manuscripts existed in this collection; of Cicero, Ovid, Lucan, and Boethius.‡ The academical library of Oxford, in 1300, consisted of a few tracts kept in chests under St. Mary's Church. That of Glastonbury Abbey, in 1248, contained four hundred volumes, among which were Livy, Sallust, Lucan, Virgil, Claudian and other ancient writers.§ But no other, probably, of that age was so numerous or so valuable. Richard of Bury, chancellor of England, under Edward III., spared no expense in collecting a library, the first perhaps that any private man had formed. But the scarcity of valuable books was still so great, that he gave the abbot of St. Albans fifty pounds weight of silver for between thirty and forty volumes.|| Charles V. increased the royal library

* Warton's *Hist. of English Poetry*, vol. ii. p. 122.

† Velly, t. v. p. 202. Crevier, t. ii. p. 36.

‡ Warton, vol. i. Dissert II.

§ *Ibid.*

|| *Ibid.* Fifty-eight books were transcribed in this abbey under one abbot, about the year 1300. Every considerable

at Paris to nine hundred volumes, which the duke of Bedford purchased and transported to London.* His brother Humphrey duke of Gloucester presented the university of Oxford with six hundred books, which seem to have been of extraordinary value, one hundred and twenty of them having been estimated at one thousand pounds. This indeed was in 1440; at which time such a library would not have been thought remarkably numerous beyond the Alps;† but England had made comparatively little progress in learning. Germany, however, was probably still less advanced.

monastery had a room, called *Scriptorium*, where this work was performed. More than eighty were transcribed at St. Albans under Whethamstede, in the time of Henry VI. *ibid.* See also *Du Cange*, v. *Scriptores*. Nevertheless we must remember; first, that the far greater part of these books were mere monastic trash, or at least useless in our modern apprehension; secondly, that it depended upon the character of the abbot, whether the *scriptorium* should be occupied or not. Every head of a monastery was not a Whethamstede. Ignorance and jollity, such as we find in Balton Abbey, were their more usual characters. By the account books of this rich monastery, about the beginning of the fourteenth century, three books only appear to have been purchased in forty years. One of those was the *Liber Sententiarum* of Peter Lombard, which cost thirty shillings, equivalent to near forty pounds at present. *Whitaker's Hist. of Craven*, p. 330.

* *Ibid.* Villaret, t. xi. p. 117.

† Niccolo Niccoli, a private scholar, who contributed essentially to the restoration of ancient learning, bequeathed a library of eight hundred volumes to the republic of Florence. This Niccoli hardly published any thing of his own; but earned a well-merited reputation by copying and correcting manuscripts. *Tiraboschi*, t. vi. p. 114. *Shepherd's Poggio*, p. 349. In the preceding century, Coluccio Salutato had procured as many as eight hundred volumes. *Ibid.* p. 32. *Roscoe's Lorenzo de' Medici*, p. 55.

Louis, Elector Palatine, bequeathed in 1421, his library to the university of Heidelberg, consisting of one hundred and fifty-two volumes. Eighty-nine of these related to theology, twelve to canon and civil law, forty-five to medicine, and six to philosophy.*

Those who first undertook to lay open the stores of ancient learning found incredible difficulties from the scarcity of manuscripts. So gross and supine was the ignorance of the monks, within whose walls these treasures were concealed, that it was impossible to ascertain, except by indefatigable researches, the extent of what had been saved out of the great shipwreck of antiquity. To this inquiry Petrarch devoted continual attention. He spared no pains to preserve the remains of authors, who were perishing from neglect and time. This danger was by no means passed in the fourteenth century. A treatise of Cicero upon Glory, which had been in his possession, was afterwards irretrievably lost.† He declares that he had seen in his youth the works of Varro; but all his endeavours to recover these and the second Decad of Livy were fruitless. He found, however, Quintilian, in 1350, of which there was no copy in Italy.‡ Boccaccio, and a man of less general fame, Coluccio Salutato, were distinguished in the same

* Schmidt, *Hist. des Allemands*, t. v. p. 520.

† He had lent it to a needy man of letters, who pawned the book, which was never recovered. De Sade, t. i. p. 57.

‡ Tiraboschi, p. 89.

honourable task. The diligence of these scholars was not confined to searching for manuscripts.— Transcribed by slovenly monks, or by ignorant persons who made copies for sale, they required the continual emendation of accurate critics.* Though much certainly was left for the more enlightened sagacity of later times, we owe the first intelligible text of the Latin classics to Petrarch, Poggio, and their contemporary labourers in this vineyard for a hundred years before the invention of printing.

What Petrarch began in the fourteenth century was carried on by a new generation with unabating industry. The whole lives of Italian scholars in the fifteenth century were devoted to the recovery of manuscripts and the revival of philology. For this they sacrificed their native language, which had made such surprising shoots in the preceeding age, and were content to trace, in humble reverence, the footsteps of antiquity. For this too they lost the hope of permanent glory, which can never remain with imitators, or such as trim the lamp of ancient sepulchres. No writer perhaps of the fifteenth century, except Politian, can aspire at present even to the second class, in a just marshalling of literary reputation. But we owe them our respect and gratitude for their taste and diligence. The discovery of an unknown manuscript, says Tiraboschi, was regarded almost as the

* Tiraboschi, t. v. p. 83. De Sade, t. i. p. 88.

conquest of a kingdom. The classical writers, he adds, were chiefly either found in Italy, or at least by Italians; they were first amended and first printed in Italy, and in Italy they were first collected in public libraries.* This is subject to some exception, when fairly considered; several ancient authors were never lost, and therefore cannot be said to have been discovered; and we know that Italy did not always anticipate other countries in classical printing. But her superior merit is incontestible. Poggio Bracciolini, who stands perhaps at the head of the restorers of learning, in the earlier part of the fifteenth century, discovered in the monastery of St. Gall, among dirt and rubbish, in a dungeon scarcely fit for condemned criminals, as he describes it, an entire copy of Quintilian, and part of Valerius Flaccus. This was in 1414; and soon afterwards, he rescued the poem of Silius Italicus, and twelve comedies of Plautus, in addition to eight that were previously known; besides Lucretius, Columella, Tertullian, Ammianus Marcellinus, and other writers of inferior note.† A bishop of Lodi brought to light the rhetorical treatises of Cicero. Not that we must suppose these books to have been universally unknown before; Quintilian, at least, is quoted by English writers much earlier.

* Tiraboschi, p. 101.

† Tiraboschi, t. vi. p. 104; and Shepherd's Life of Poggio, p. 106. 110. Roscoe's Lorenzo de' Medici, p. 88.

But so little intercourse prevailed among different countries, and the monks had so little acquaintance with the riches of their conventual libraries, that an author might pass for lost in Italy, who was familiar to a few learned men in other parts of Europe. To the name of Poggio we may add a number of others, distinguished in this memorable resurrection of ancient literature, and united, not always indeed by friendship, for their bitter animosities disgrace their profession, but by a sort of common sympathy in the cause of learning; Filelfo, Laurentius Valla, Niccolò Niccoli, Ambrogio Traversari, more commonly called il Camaldolense, and Leonardi Aretino.

From the subversion of the Western Empire, or at least from the time when Rome ceased to pay obedience to the exarchs of Ravenna, the Greek language and literature had been almost entirely forgotten within the pale of the Latin church. A very few exceptions might be found, especially in the earlier period of the middle ages, while the eastern emperors retained their dominion over part of Italy.* Thus Charlemagne is said to have established a school for Greek at Osnabrug.† John Scotus seems to have been well acquainted with the language. And Greek

* Schmidt, *Hist. des Allemands*, t. ii. p. 374. Tiraboschi, t. iii. p. 124, et alibi. Bede extols Theodore primate of Canterbury and Tobias bishop of Rochester for their knowledge of Greek. *Hist. Eccles.* e. 9. and 24. But the former of these prelates, if not the latter, was a native of Greece.

† *Hist. Littéraire de la France*, t. iv. p. 12.

characters may occasionally, though very seldom, be found in the writings of learned men; such as Lanfranc or William of Malmesbury.* It is said that Roger Bacon understood Greek; and his eminent con-

* Greek characters are found in a charter of 943, published in Martenne, *Thesaurus Anecdot.* t. i. p. 74. The title of a treatise, *περι φυσικων μερισμων*, and the word *θεολογος*, occur in William of Malmesbury, and one or two others in Lanfranc's Constitutions. It is said that a Greek psalter was written in an abbey at Tournay about 1105. *Hist. Litt. de la France*, t. ix. p. 102. This was, I should think, a very rare instance of a Greek manuscript, sacred or profane, copied in the western parts of Europe before the fifteenth century. But a Greek psalter written in Latin characters at Milan in the ninth century was sold some years ago in London. John of Salisbury is said by Crevier to have known a little Greek, and he several times uses technical words in that language. But he could not have been much more learned than his neighbours; since having found the word *σοα* in St. Ambrose, he was forced to ask the meaning of one John Sarasin an Englishman, because, says he, none of our masters here (at Paris) understand Greek. Paris, indeed, Crevier thinks, could not furnish any Greek scholar in that age except Abelard and Heloise, and probably neither of them knew much. *Hist. de l'Univers. de Paris*, t. i. p. 259.

The ecclesiastical language, it may be observed, was full of Greek words latinized. But this process had taken place before the fifth century; and most of them will be found in the Latin dictionaries. A Greek word was now and then borrowed, as more imposing than the correspondent Latin. Thus the English and other kings sometimes called themselves *Basileus*, instead of *Rex*.

It will not be supposed, that I have professed to enumerate all the persons, of whose acquaintance with the Greek tongue some evidence may be found; nor have I ever directed my attention to the subject with that view. Doubtless the list might be more than doubled. But, if ten times the number could be found, we should still be entitled to say, that the language was almost unknown, and that it could have had no influence on the condition of literature.

temporary, Robert Grostete, bishop of Lincoln, had a sufficient intimacy with it to write animadversions upon Suidas. Since Greek was spoken with considerable purity by the noble and well educated natives of Constantinople, we may wonder that, even as a living language, it was not better known by the western nations, and especially in so neighbouring a nation as Italy. Yet here the ignorance was perhaps even more complete than in France or England. In some parts indeed of Calabria, which had been subject to the eastern empire till near the year 1100, the liturgy was still performed in Greek; and a considerable acquaintance with the language was of course preserved. But for the scholars of Italy, Boccaccio positively asserts, that no one understood so much as the Greek characters.* Nor is there probably a single line quoted from any poet in that language from the sixth to the fourteenth century.

The first to lead the way in restoring Grecian learning in Europe where the same men who had revived the kindred muses of Latium, Petrarca and Boccaccio. Barlaam, a Calabrian by birth, during an embassy from the court of Constantinople in 1335, was persuaded to become the preceptor of the former, with whom he read the works of Plato.† Leontius

* Nemo est qui Græcas literas norit; at ego in hoc Latinitati comparior, quæ sic omnino Græca objecit studia, ut etiam non noscamus characteres literarum. *Genealogiæ Deorum*, apud Hodium de Græcis Illustribus, p. 3.

† Mem. de Pétrarque, i. p. 407.

Pilatus, a native of Thessalonica, was encouraged some years afterwards by Boccaccio to give public lectures upon Homer at Florence.* Whatever might be the share of general attention that he excited, he had the honour of instructing both these great Italians in his native language. Neither of them perhaps reached an advanced degree of proficiency; but they bathed their lips in the fountain, and enjoyed the pride of being the first who paid the homage of a new posterity to the father of poetry. For some time little fruit apparently resulted from their example; but Italy had imbibed the desire of acquisitions in a new sphere of knowledge, which, after some interval, she was abundantly enabled to realize. A few years before the termination of the fourteenth century, Emanuel Chrysoloras, whom the emperor John Palæologus had previously sent into Italy, and even as far as England, upon one of those unavailing embassies by which the Byzantine court strove to obtain sympathy and succour from Europe, returned to Florence as a public teacher of Grecian literature.† His school was afterwards removed successively to

* Mem. p. 447.; t. iii. p. 634. Hody de Græcis Illust. p. 2. Boccace speaks modestly of his own attainments in Greek: *etsi non satis plenè perceperim, percepi tamen quantum potui; nec dubium, si permansisset homo ille vagus diutius penes nos, quin plenius perecepissem.* id. p. 4.

† Hody places the commencement of Chrysoloras's teaching as early as 1391. p. 3. But Tiraboschi, whose research was more precise, fixes it at the end of 1396 or beginning of 1397. t. vii p. 126.

Pavia, Venice and Rome; and during nearly twenty years that he taught in Italy, most of those eminent scholars, whom I have already named, and who distinguished the first half of that century, derived from his instruction their knowledge of the Greek tongue. Some, not content with being the disciples of Chrysoloras, betook themselves to the source of that literature at Constantinople; and returned to Italy, not only with a more accurate insight into the Greek idiom than they could have attained at home, but with copious treasures of manuscripts, few, if any, of which can have existed previously in Italy, where none had ability to read or value them; so that the principal authors of Grecian antiquity may be considered as brought to light by these inquirers, the most celebrated of whom are Guarino of Verona Aurispa, and Filelfo. The second of these brought home to Venice in 1423 not less than two hundred and thirty-eight volumes.*

The fall of that eastern empire, which had so long out-lived all other pretensions to respect, that it scarcely retained that founded upon its antiquity, seems to have been providentially delayed, till Italy was ripe to nourish the scattered seeds of literature that would have perished a few ages earlier in the common catastrophe. From the commencement of the fifteenth century, even the national pride of Greece could not

* Tiraboschi, t. vi. p. 102. Roscoe's Lorenzo de' Medici, vol. i. p. 43.

blind her to the signs of approaching ruin. It was no longer possible to inspire the European republic, distracted by wars and restrained by calculating policy, with the generous fanaticism of the crusades; and at the council of Florence, in 1439, the court and church of Constantinople had the mortification of sacrificing their long-cherished faith, without experiencing any sensible return of protection or security.—The learned Greeks were perhaps the first to anticipate, and certainly not the last to avoid their country's destruction. The council of Florence brought many of them into Italian connexions, and held out at least a temporary accommodation of their conflicting opinions. Though the Roman pontiffs did nothing, and probably could have done nothing effectual for the empire of Constantinople, they were very ready to protect and reward the learning of individuals.—To Eugenius IV., to Nicolas V., to Pius II., and some other popes of this age, the Greek exiles were indebted for a patronage which they repaid by splendid services in the restoration of their native literature throughout Italy. Bessarion, a disputant on the Greek side in the council of Florence, was well content to renounce the doctrine of single procession for a cardinal's hat; a dignity which he deserved for his learning, if not for his pliancy. Theodore Gaza, George of Trebizond, and Gemistus Pletho might equal Bessarion in merit, though not in honours.—They all however experienced the patronage of those

admirable protectors of letters, Nicolas V., Cosmo de' Medici, or Alfonso, king of Naples. These men emigrated before the final destruction of the Greek empire; Lascaris and Musurus, whose arrival in Italy was posterior to that event, may be deemed perhaps still more conspicuous; but as the study of the Greek language was already restored, it is unnecessary to pursue the subject any farther.

The Greeks had preserved, through the course of the middle ages, their share of ancient learning with more fidelity and attention than was shewn in the west of Europe. Genius indeed, or any original excellence, could not well exist along with their cowardly despotism and their contemptible theology, more corrupted by frivolous subtleties than that of the Latin church. The spirit of persecution, naturally allied to despotism and bigotry, had nearly, during one period, extinguished the lamp, or at least reduced the Greeks to a level with the most ignorant nations of the west. In the age of Justinian, who expelled the last Platonic philosophers, learning began rapidly to decline; in that of Heraclius, it had reached a much lower point of degradation; and for two centuries, especially while the worshippers of images were persecuted with unrelenting intolerance, there is almost a blank in the annals of Grecian literature.* But about

* The authors most conversant with Byzantine learning agree in this. Nevertheless, there is one manifest difference between the Greek writers of the worst period, such as the

the middle of the ninth century, it revived pretty suddenly, and with considerable success.* Though, as I have observed, we find in very few instances any original talent, yet it was hardly less important to have had compilers of such erudition as Photius, Suidas, Eustathius and Tzetzes. With these certainly the Latins of the middle ages could not place any names in comparison. They possessed, to an extent which we cannot precisely appreciate, many of those poets, historians and orators of ancient Greece, whose loss we have long regretted, and must continue to

eight century, and those who correspond to them in the west. Syncellus, for example, is of great use in chronology, because he was acquainted with many ancient histories now no more. But Bede possessed nothing which we have lost; and his compilations are consequently altogether unprofitable. The eighth century, the *seculum iconoclasticum* of Cave, low as it was in all polite literature, produced one man, St. John Damascenus, who has been deemed the founder of scholastic theology, and who at least set the example of that style of reasoning in the east. This person, and Michael Psellus, a philosopher of the eleventh century, are the only considerable men, as original writers in the annals of Byzantine literature.

* The honour of restoring ancient or heathen literature is due to the Cæsar Bardas, uncle and minister of Michael II.—Cedrenus speaks of it in the following terms: *επεμεληθη δε και της εξω σοφιας, (ην γαρ εκ πολλων χρονων παραβρυεισα. και προς το μηδεν θλωσ χωρησασα της των κραττων αρχων και μαθια) διατριβας εκαση των επισημων αφορησας, των μεν αλλων υπη περ ελυχε, της δε επι πασων εποχων φιλοσοφιας και αλλα τα βασιλεια εν της Μυγναυρι και θλω εξ εκεινσ ανηβασκειν αι επισημαι ηρξαντο. κ. τ. γ.* Hist. Byzant. Script. (Lutet.) t. x. p. 527. Bardas found out and promoted Photius, afterwards patriarch of Constantinople, and equally famous in the annals of the church and of learning. Gibbon passes perhaps too rapidly over the Byzantine literature, chap 53. In this, as in many other places, the masterly boldness and precision of his outline, which astonish those who have trodden parts of the same field, is apt to escape an uninformed reader.

deem irretrievable. Great havoc indeed was made in the libraries of Constantinople at its capture by the Latins; an epoch from which a rapid decline is to be traced in the literature of the eastern empire.—Solecisms and barbarous terms, which sometimes occur in the older Byzantine writers, are said to deform the style of the fourteenth and fifteenth centuries.*

* Du Cange. *Præfatio ad Glossar. Græcitat. Medii Ævi.* Anna Comnena quotes some popular lines, which seem to be the earliest specimen extant of the Romaic dialect, or something approaching it, as they observe no grammatical inflexion, and bear about the same resemblance to ancient Greek that the worst law-charters of the ninth and tenth centuries do to pure Latin. In fact, the Greek language seems to have declined much in the same manner as the Latin did, and almost at as early a period. In the sixth century, Damascius a Platonic philosopher, mentions the old language as distinct from that which was vernacular, *την αρχαιαν γλωσσαν ὑπερ ἣτην ιδιωτην μελετῶσι.* Du Cange, *ibid.* p. 11. It is well known that the popular, or *political* verses of Tzetzes, a writer of the twelfth century, are accentual; that is, are to be read, as the modern Greeks do, by treating every acute or circumflex syllable as long, without regard to its original quantity. This innovation, which must have produced still greater confusion of metrical rules than it did in Latin, is much older than the age of Tzetzes; if, at least, the editor of some notes subjoined to Meursius's edition of the *Themata* of Constantine Porphyrogenitus (Lugduni, 1617) is right in ascribing certain political verses to that emperor, who died in 959. These verses are regular accentual trochaics. But I believe they have since been given to Constantine Manasses, a writer of the eleventh century.

According to the opinion of a modern traveller, (Hobhouse's *Travels in Albania*, letter 33,) the chief corruptions which distinguish the Romaic from its parent stock, especially the auxiliary verbs, are not older than the capture of Constantinople by Mahomet II. But it seems difficult to obtain any satisfactory proof of this; and the auxiliary verb is so natural and convenient, that the ancient Greeks may probably, in

The Turkish ravages and destruction of monasteries ensued; and in the cheerless intervals of immediate terror, there was no longer any encouragement to preserve the monuments of an expiring language and of a name that was to lose its place among nations.*

That ardour for the restoration of classical literature which animated Italy in the first part of the fif-

some of their local idioms, have fallen into the use of it; as Mr. H. admits they did with respect to the future auxiliary $\delta\epsilon\lambda\omega$. See some instances of this in Lesbonax $\pi\epsilon\rho\iota$ $\sigma\chi\eta\mu\alpha\tau\omega\upsilon$, ad finem Ammonii, eurâ Valekenær.

* Photius (I write on the authority of M. Heeren) quotes Theopompus, Arrian's history of Alexander's successors, and of Parthia, Ctesias, Agatharcides, the whole of Diodorus Siculus, Polybius, and Dionysius of Halicarnassus, twenty lost orations of Demosthenes, almost two hundred of Lysias, sixty-four of Isæus above fifty of Hyperides. Heeren ascribes the loss of these works altogether to the Latin capture of Constantinople, no writer subsequent to that time having quoted them. *Essai sur les Croisades*, p. 413. It is difficult however not to suppose, that some part of the destruction was left for the Ottomans to perform. Æneas Sylvius bemoans, in his speech before the diet of Frankfort, the vast losses of literature by the recent subversion of the Greek empire. *Quid de libris dicam, qui illic erant innumerabiles, nondum Latinis cogniti? Nunc ergo, et Homero et Pindaro et Menandro et omnibus illustrioribus poetis, secunda mors erit.* But nothing can be inferred from this declamation, except, perhaps, that he did not know whether Menander still existed or not. *Æn. Sylv. Opera*, p. 745.; also p. 881. Harris's *Philological Inquiries*, part iii. c. 4. It is a remarkable proof, however, of the turn which Europe, and especially Italy, was taking, that a pope's legate should, on a solemn occasion, descant so seriously on the injury sustained by profane literature.

An useful summary of the lower Greek literature, taken chiefly from the *Bibliotheca Græca* of Fabricius, will be found in Berington's *Literary History of the Middle Ages*. Appendix I.; and one rather more copious in Schœll, *Abrégé de la Littérature Grecque*. (Paris, 1812.)

teenth century was by no means common to the rest of Europe. Neither England, nor France, nor Germany seemed aware of the approaching change. We are told that learning, by which I believe is only meant the scholastic ontology, had begun to decline at Oxford from the time of Edward III.* And the fifteenth century, from whatever cause, is particularly barren of writers in the Latin language.

The study of Greek was only introduced by Grocyn and Linacer under Henry VII. and met with violent opposition in the university of Oxford, where the unlearned party styled themselves Trojans, as a pretext for abusing and insulting the scholars.† Nor did any classical work proceed from the respectable press of Caxton. France, at the beginning of the fifteenth age, had several eminent theologians; but the reigns of Charles VII. and Louis XI. contributed far more to her political than her literary renown. A Greek professor was first appointed at Paris in 1458, before which time the language had not been publicly taught, and was little understood.‡ Much less had Germany thrown off her ancient rudeness.—Æneas Sylvius indeed, a deliberate flatterer, extols every circumstance in the social state of that country; but Campano, the papal legate at Ratisbon in 1471, exclaims against the barbarism of a na-

* Wood's Antiquities of Oxford, vol. i. p. 537.

† Roper's Vita Mori, ed. Hearne, p. 75.

‡ Crevier, t. iv. p. 218.; see too p. 46.

tion, where very few possessed any learning, none any elegance.* Yet the progress of intellectual cultivation, at least in the two former countries, was uniform, though silent; libraries became more numerous, and books, after the happy invention of paper, though still very scarce, might be copied at less expense. Many colleges were founded in the English as well as foreign universities during the fourteenth and fifteenth centuries. Nor can I pass over institutions that have so eminently contributed to the literary reputation of this country, and that still continue to exercise so conspicuous an influence over her taste and knowledge, as the two great schools of grammatical learning, Winchester and Eton; the one founded by William of Wykeham, bishop of Winchester, in 1373; the other, in 1432, by King Henry the Sixth.†

* *Incredibilis ingeniorum barbaries est; rarissimi literas norunt. nulli elegantiam. Papiensis Epistolæ, p. 377.* Campano's notion of elegance was ridiculous enough. Nobody ever carried farther the pedantic affectation of avoiding modern terms in his Latinity. Thus, in the life of Braccio da Montone, he renders his meaning almost unintelligible by excess of classical purity. Braccio boasts *se nunquam deorum immortalium templa violasse*. Troops committing outrages in a city are accused *virgines vestales incestasse*. In the terms of treaties, he employs the old Roman forms; *exercitum trajicito—oppida pontificis sunt, &c.* And with a most absurd pedantry, the ecclesiastical state is called *Romanum imperium*. *Campani Vita Braccii, in Muratori Script. Rer. Ital. t. xix.*

† A letter from Master William Paston at Eton (Paston letters, vol. i. p. 299.) proves that Latin versification was taught there as early as the beginning of Edward IV.'s reign. It is true that the specimen he rather proudly exhibits does not

But while the learned of Italy were eagerly exploring their recent acquisitions of manuscripts, decyphered with difficulty, and slowly circulated from hand to hand, a few obscure Germans had gradually perfected the most important discovery recorded in the annals of mankind. The invention of printing, so far from being the result of philosophical sagacity, does not appear to have been suggested by any regard to the higher branches of literature, or to bear any other relation than that of coincidence to their revival in Italy. The question, why it was struck out at that particular time, must be referred to that disposition of unknown causes which we call accident. Two or three centuries earlier, we cannot but acknowledge, the discovery would have been almost equally acceptable. But the invention of paper seems to have naturally preceded those of engraving and printing. It is generally agreed, that playing cards, which have been traced far back in the fourteenth century, gave the first notion of taking off impressions from engraved figures upon wood. The second stage, or rather second application of this art, was the representation of saints and other religious devices, several instances of which are still extant.—Some of these are accompanied with an entire page of illustrative text, cut into the same wooden block.

much differ from what we denominate nonsense verses. But a more material observation is that the sons of country gentlemen living at a considerable distance, were already sent to public schools for grammatical education.

This process is indeed far removed from the invention that has given immortality to the names of Fust, Schœffer and Guttenberg, yet it probably led to the consideration of means whereby it might be rendered less operose and inconvenient. Whether moveable wooden characters were ever employed in any entire work is very questionable; the opinion that referred their use to Laurence Coster of Haarlem not having stood the test of more accurate investigation. They appear, however in the capital letters of some early printed books. But no expedient of this kind could have fulfilled the great purposes of this invention until it was perfected by founding metal types in a matrix or mould, the essential characteristic of printing, as distinguished from other arts that bear some analogy to it.

The first book that issued from the presses of Fust and his associates at Mentz was an edition of the Vulgate, commonly called the Mazarine Bible; a copy having been discovered in the library that owes its name to Cardinal Mazarin at Paris. This is supposed to have been printed between the years 1450 and 1455.* In 1457 an edition of the Psalter appeared, and in this the invention was announced to the world in a boasting colophon, though certainly not unreasonably bold.† Another edition of the Psalter, one

* De Bure, t. i. p. 30. Several copies of this book have come to light since its discovery.

† Id. t. i. p. 71.

of an ecclesiastical book, Durand's account of liturgical offices, one of the Constitutions of Pope Clement V., and one of a popular treatise on general science called the *Catholicon*, fill up the interval till 1462; when the second Mentz Bible proceeded from the same printers.* This in the opinion of some, is the earliest book in which cast types were employed; those of the Mazarine Bible having been cut with the hand. But this is a controverted point. In 1465, Fust and Schœffer published an edition of Cicero's Offices, the first tribute of the new art to polite literature. Two pupils of their school, Sweynheim and Pannartz, migrated the same year into Italy, and printed Donatus's grammar, and the works of Lactantius at the monastery of Subiaco in the neighbourhood of Rome.† Venice had the honour of extending her patronage to John of Spira, the first who applied the art on an extensive scale to the publication of classical writers.‡ Several Latin authors came forth from his press in 1470; and during the next ten years, a multitude of editions were published in various parts of Italy.§ Though, as we may judge

* *Mem. de l'Acad. des Inscriptions*, t. xiv. p. 265. Another edition of the Bible is supposed to have been printed by Pfister at Bamberg in 1459.

† Tiraboschi, t. vi. p. 140.

‡ Sanuto mentions an order of the senate in 1469, that John of Spira should print the epistles of Tully and Pliny for five years, and that no one else should do so. *Script. Rerum Italic.* t. xxii. p. 1189.

§ Tiraboschi, *ubi supra*.

from their present scarcity, these editions were by no means numerous in respect of impressions, yet, contrasted with the dilatory process of copying manuscripts, they were like a new mechanical power in machinery, and gave a wonderfully accelerated impulse to the intellectual cultivation of mankind. From the æra of these first editions proceeding from the Spiras, Zarot, Janson, or Sweynheim and Pannartz, literature must be deemed to have altogether revived in Italy. The sun was now fully above the horizon, though countries less fortunately circumstanced did not immediately catch his beams, and the restoration of ancient learning in France and England cannot be considered as by any means effectual even at the expiration of the fifteenth century. At this point, however, I close the present chapter. The last twenty years of the middle ages, according to the date which I have fixed for their termination in treating of political history, might well invite me by their brilliancy to dwell upon that golden morning of Italian literature. But, in the history of letters, they rather appertain to the modern than the middle period; nor would it become me to trespass upon the exhausted patience of my readers by repeating what has been so often and so recently told, the story of art and learning, that has employed the comprehensive research of a Tiraboschi, a Ginguene, and a Roscoe.

The first part of the history is a general account of the
 state of the world in the beginning of the world, and
 the progress of it to the present time. It is divided
 into three parts, the first of which is a description
 of the world in general, the second of the world
 in particular, and the third of the world in
 particular. The first part is a description of the
 world in general, and is divided into three
 chapters, the first of which is a description of
 the world in general, the second of the world
 in particular, and the third of the world in
 particular. The second part is a description of
 the world in particular, and is divided into
 three chapters, the first of which is a description
 of the world in particular, the second of the
 world in particular, and the third of the world
 in particular. The third part is a description
 of the world in particular, and is divided into
 three chapters, the first of which is a description
 of the world in particular, the second of the
 world in particular, and the third of the world
 in particular.

